

This week at the UK regulators

Thirty second guide: The week in overview

Headlines last week were dominated by the Upper Tribunal's long-awaited decision in the market abuse case pursued against Mr Ian Hannam. The tribunal's 130 page judgment dismissing his challenge to the FCA's action has reinforced a number of key concepts in relation to the market abuse regime. It has reserved judgment on the proposed £450,000 penalty until both sides have had the opportunity to make further representations.

The FCA has released the findings of a thematic review into the management of conflicts of interests by insurance intermediaries dealing with small and medium sized enterprises, finding issues in a number of areas and promising tighter supervision in some cases.

In a speech evaluating progress to date and looking ahead to the future, Martin Wheatley has re-emphasised the FCA's aim of taking an interventionist yet balanced approach to regulation and has set out some of the ways in which the regulator is seeking to move with the times.

Tribunal finds Hannam engaged in market abuse

Following hearings in July and October last year, the Upper Tribunal has (on 28 May) issued its lengthy judgment in relation to the reference pursued by Mr Ian Hannam. The FCA has been pursuing action against him for market abuse through improper disclosure of inside information contrary to section 118(3) of the Financial Services and Markets Act 2000 ("FSMA").

Dismissing the reference, the tribunal found that statements contained in two emails sent in September and October 2008 amounted to "inside information", that Mr Hannam disclosed the information "otherwise than in the proper course of the exercise of his employment, profession or duties", and that neither of the defences under section 123 of FSMA applied.

The judgment reinforces a number of key concepts in relation to market abuse, and FCA enforcement proceedings more generally, in areas including the meaning of "inside information" for the purposes of the civil market abuse regime, the steps to be taken when disclosing "inside information" and the standard of proof in enforcement proceedings.

In its statement following the release of the judgment, the FCA confirmed that its case did not include any suggestion that Mr Hannam lacks honesty or integrity.

The FCA has decided to impose a financial penalty of £450,000. The tribunal has invited Mr Hannam and the FCA to make additional submissions on the appropriate level of the penalty, and will rule on that issue at a later date.

<http://www.fca.org.uk/news/ian-hannam-guilty-of-market-abuse>

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

FCA reports on conflicts of interest for insurance intermediaries

The FCA has (on 27 May) released details of the findings of a thematic review into whether insurance intermediaries serving small and medium sized enterprises ("SMEs") are able to effectively identify and mitigate conflicts of interest arising from their remuneration structures.

The review found a number of recurrent issues. In particular, it found that the structure of some intermediaries' businesses and sources of revenue created significant conflicts of interest, that the control framework and mechanisms for producing appropriate management information had not adapted to match growth in some firms, and that many intermediaries relied on disclosing conflicts of interest rather than seeking to put in place appropriate arrangements to avoid them arising.

Research conducted as part of the review showed that many SME customers misunderstood the role of insurance intermediaries, perceiving them as independent advisers.

The FCA has indicated that it will engage at the supervisory level with individual firms to address issues identified during the review, and will issue industry wide feedback.

<http://www.fca.org.uk/your-fca/documents/thematic-reviews/tr14-09>

Martin Wheatley indicates no let up in regulatory scrutiny...and looks ahead to the future

In a speech given on 29 May, Martin Wheatley, Chief Executive of the FCA has given his view on the progress being made to boost levels of public confidence in the financial services sector, recognising positive momentum generated over the past year in areas including ethics, consumer protection and crisis prevention.

He signalled the FCA's continuing commitment to these priority areas, underlining his wish to maintain a balanced

approach to regulation and to avoid any slippage in standards due to undue relaxation of regulatory oversight as economic conditions continue to improve.

He also acknowledged the need to achieve balance between appropriate levels of regulation and innovation, highlighting the FCA's "Project Innovate" as an example of its understanding of the rapid pace of change driven by technological advances. He also pointed in particular to developments in artificial intelligence which may allow firms to provide automated financial advice to customers in some cases, stating that more detailed consultation is likely to follow the initial scoping work already undertaken in this area. Seeking to demonstrate the FCA's wish to work with firms to innovate and provide services flexibly in a way best suited to customers' needs, he indicated that the FCA is prepared to grant waivers from regulatory requirements in relation to product disclosure in some cases where firms can show that their proposed approaches serve customers better.

<http://www.fca.org.uk/news/making-innovation-work>

FCA warnings

Name of firm	Date of warning	Details
Loan.co.uk	29 May 2014	Clone firm http://www.fca.org.uk/news/warnings/loan-co-uk-clone-cc
London Prestige Capital Limited	28 May 2014	Not authorised http://www.fca.org.uk/news/warnings/london-prestige-capital-limited
Hamilton Carter International Commodities	28 May 2014	Not authorised http://www.fca.org.uk/news/warnings/hamilton-carter-international-commodities
Assiprime Euro Brokering	27 May 2014	Clone firm http://www.fca.org.uk/news/warnings/assiprime-euro-brokering-clone

Policy developments

FCA		PRA	
Proposed developments			
		Deadline for responses	
Consultation papers	<p>The FCA has (on 29 May) issued a consultation paper (CP 14/7) on proposed changes to its fees rules to facilitate charging interim permission fees to local authorities.</p> <p>http://www.fca.org.uk/your-fca/documents/consultation-papers/cp14-7</p>		

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