

This week at the UK regulators

Thirty second guide: The week in overview

The FCA last week charged a former trader with alleged insider dealing over a nine year period. In other developments, action against a payday lender inherited from the Office of Fair Trading came to an end with an agreement for the imposition of a redress package in respect of historic treatment of customers in arrears and systems and controls failings which led to the inconsistent application of fees and balance adjustments. The case is the latest and most significant to be concluded by the FCA since it embarked upon its campaign of tightening requirements on payday lenders after receiving responsibility for regulation of the consumer credit sector in April 2014.

Away from enforcement developments, the FCA followed up a recommendation of the Financial Policy Committee on mortgage lending, indicating that fuller consultation will follow, and issued a discussion paper on how it may change the way in which it recovers the costs of administering the gateway.

Further afield, the Australian Senate committee which has been examining the performance of the Australian Securities and Investments Commission has published a lengthy report recommending root and branch reform.

Former trader charged with insider dealing

The FCA has (on 25 June) charged Mr Damian Clarke, a former equities trader, with insider dealing under section 52(1) of the Criminal Justice Act 1993. The action relates to trades and spread bets entered into between 30 October 2003 and 28 November 2012. Mr Clarke is due to appear before Westminster Magistrates' Court on 4 July 2014.

<http://www.fca.org.uk/news/firms/former-equities-trader-charged-insider-dealing>

FCA continues consumer credit campaign

The FCA has (on 25 June) entered into an agreement with Wonga Group Limited ("Wonga") for the voluntary imposition of a requirement on it.

In the latest action taken to be against a payday lender since the FCA took over responsibility for the regulation of the consumer credit sector on 1 April 2014, Wonga has agreed to refund charges levied on customers in arrears in connection with practices which occurred between October 2008 and November 2010, including the sending of letters to customers purporting to come from non-existent law firms. The agreement is also based in part on system errors which caused inconsistent application of fees and balance adjustments to customers. The action was commenced by

the Office of Fair Trading whilst it was responsible for consumer credit regulation.

Under the terms of the agreement, Wonga will conduct a customer redress scheme overseen by a skilled person appointed by the FCA under section 166 of the Financial Services and Markets Act 2000.

The action follows the announcement in March of a thematic review of payday lending practices, including arrears management practices (see This week at the UK regulators, 17 March 2014).

<http://www.fca.org.uk/news/wonga-redress-unfair-debt-collection-practices>

<http://www.fca.org.uk/news/consumer-credit-countdown-review-into-debt-collection-practices-of-payday-lenders-starts-on-day-one-of-fca-regulation>

<https://onlineservices.cliffordchance.com/online/freeDownload.action?key=OBWlbfGhLNomwBI%2B33QzdFhRQAhp8D%2BxrlGRel2crGqLnALtlyZe8jnT1yoVtP8Dk33tUw9C0Dp%0D%0A5mt12P8Wnx03DzsaBGwsIB3EVF8XihbSpJa3xHNE7tFeHpEbaelf&attachmentsize=131954>

FCA follows up on Financial Policy Committee mortgage statement

On 26 June, the Financial Policy Committee ("FPC") recommended that the FCA and PRA should ensure that no

more than 15 per cent of the total number of new residential mortgages should be extended at loan to income ratios exceeding 4.5. In response, the FCA has (also on 26 June) confirmed that it will consult on general guidance providing details of how it intends to deal with the recommendation and others made by the FPC.

<http://www.fca.org.uk/news/fca-comments-on-financial-policy-committee-recommendations>

<http://www.bankofengland.co.uk/publications/Pages/news/2014/094.aspx>

FCA warnings

Name of firm	Date of warning	Details
Rimas Risk Management Service	26 June 2014	Clone firm http://www.fca.org.uk/news/warnings/rimas-risk-management-service-clone
The London SIPP Company / The London Pension Company Ltd	26 June 2014	Not authorised http://www.fca.org.uk/news/warnings/the-london-sipp-company
Knightsbridge Management International Asset Management	26 June 2014	Clone firm http://www.fca.org.uk/news/warnings/knightsbridge-management-international-asset-management-clone
China Trust Underwriters	25 June 2014	Not authorised http://www.fca.org.uk/news/warnings/china-trust-underwriters
Lucrativa Limited	25 June 2014	Not authorised http://www.fca.org.uk/news/warnings/lucrativa-limited
Capital One Forex / capitaloneforex.com	23 June 2014	Not authorised http://www.fca.org.uk/news/warnings/capital-one-forex
Worth.IT Financial Services Ltd (clone) t/a venetfx.com, Worth Financial Services, Worth Ltd, VenetFX	23 June 2014	Not authorised http://www.fca.org.uk/news/warnings/worth-it-financial-services-ltd-clone

Eleman Consulting Ltd t/a Clarvin Eleman Inc	20 June 2014	Not authorised http://www.fca.org.uk/news/warnings/eleman-consulting-ltd-ta-clarvin-eleman-inc
The Insurance Helpline	20 June 2014	Clone firm http://www.fca.org.uk/news/warnings/the-insurance-helpline-clone

Policy developments

FCA		PRA	
Proposed developments			
		Deadline for responses	
Discussion papers	<p>The FCA has (on 23 June) issued a discussion paper (DP 14/1) containing proposed changes to the recovery of the costs of administering the regulatory gateway.</p> <p>The FCA has indicated that a consultation exercise will follow in October 2014 and that any changes will be implemented from 1 April 2015.</p> <p>http://www.fca.org.uk/static/documents/discussion-papers/dp14-01.pdf</p>	22 August 2014	

Further Afield

Australian Senate recommends root and branch changes

The Australian Senate Economics Reference Committee has (on 26 June) published its report into the performance of the Australian Securities and Investments Commission ("ASIC"). The report, which is voluminous and in places highly critical follows a lengthy inquiry process and makes 61 recommendations. These cover a wide range of areas of concern including ASIC's supervisory and enforcement approach, relations with other regulatory bodies and governance arrangements. The recommendations suggest not only additional rules and amendments to legislation but also fundamental changes to the way in which ASIC approaches its remit, particularly in relation to financial services consumer protection. For example, proposals made in relation to the introduction of new penalty calculation rules enabling multipliers to be used to send deterrent messages, and suggested new, more interventionist approaches to tackling products which are, or may be, detrimental to consumers' interests are resonant of the increasingly proactive approach taken by the FCA, and the FSA before it, in recent years.

ASIC has (also on 26 June) issued a statement in response. It has not commented on the recommendations other to note that it has already made some changes in areas including the treatment of whistleblowers, transparency of its processes, risk identification mechanisms and the processes by which enforceable undertakings (its most commonly used enforcement tool) are entered into and to state that some of the recommendations made coincide with the submissions it made in evidence to the committee.

http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/ASIC/Final_Report/~/_media/Committees/Senate/committee/economics_ctte/ASIC/Final_Report/report.pdf

<http://www.asic.gov.au/asic/asic.nsf/byheadline/14-142MR+ASIC+statement+on+Senate+Economics+Committee+report?openDocument>

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