

This week at the UK regulators

Thirty second guide: The week in overview

In a relatively quiet week during the holiday period, the only significant enforcement development last week was the release of a judgment by the Upper Tribunal confirming the imposition of a prohibition order on a former insurance broker. Although it turned on its own facts, it emphasised the latitude allowed to the FCA to radically change its case before the Tribunal from that originally advanced at earlier stages of the proceedings.

Away from enforcement developments, the FCA has entered into the latest in a line of agreements with consumer credit firms to cease taking on new business. It has also followed up general guidance issued last week on the use of social media for financial promotions with a warning to consumer credit firms that they need to do more to ensure the clarity and fairness of financial promotions directed at consumers.

Further afield, a report issued by the Organization for Security and Co-operation in Europe has highlighted the way in which organisations in the financial services sector may use their anti-money laundering systems and controls to help prevent and detect human trafficking.

The truth, the whole truth and nothing but the truth: Tribunal bans insurance broker for integrity failings

The Upper Tribunal has, in a judgment dated 6 August and released on 12 August, imposed a prohibition order on Mr Stephen Allen, a former insurance broker, based upon a finding that he lacks integrity and is therefore not a fit and proper person to carry out regulated activities. The Tribunal noted that the reasons advanced by the FSA in the first instance and subsequently by the FCA in support of its contention that he is not fit and proper have changed over the course of the case, and that those put forward at the hearing of the reference by it were different from those originally heard by the Regulatory Decisions Committee ("RDC"), which decided to ban Mr Allen in July 2012. The Tribunal, in its judgment, has recognised that the foundation of a reference on a completely different case from that originally advanced before the RDC is unprecedented.

The FSA originally alleged that Mr Allen secretly added a fee to premiums charged to a client and that he diverted funds due to that client and an authorised insurance broker. However, it subsequently abandoned those allegations and chose instead to rely upon the contents a judgment handed down in December 2011 in separate litigation in which Mr Allen was the claimant and the client concerned was a witness. Mr Allen provided a heavily redacted copy of one

page of the judgment in support of his defence of the FSA's original allegations, seeking to undermine the credibility of the client concerned. He refused to provide the remainder of the judgment to the FSA, which subsequently obtained it through other means. The unredacted sections were found to contain indications of the judge's view that Mr Allen knowingly advanced an untrue case in those proceedings.

The Tribunal agreed with the FCA's contentions that Mr Allen lacks honesty and integrity. It based its decision on the judge's findings (which it found to be unimpeachable in the absence of any appeal), Mr Allen's subsequent attempts to mislead the Tribunal by producing an extract of a judgment concealing the findings made by the judge about his own conduct and his refusal to provide a full copy of the judgment when requested.

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

Final Notices

- In separate cases, the FCA has (on 14 August) cancelled the registrations of Al-Noor Corporation Limited, Codeway Finance Limited and UK2PK Limited as Small Payment Institutions under the Payment Services Regulations 2009 ("the PSRs") for failing to submit relevant regulatory returns.

<http://www.fca.org.uk/static/documents/final-notice/al-noor-corporation-limited.pdf>

<http://www.fca.org.uk/static/documents/final-notices/codeway-finance-limited.pdf>

<http://www.fca.org.uk/static/documents/final-notices/uk2pk-limited.pdf>

- The FCA has (on 12 August) cancelled the permission granted to David John Hewitt trading as Bexley Insurance Centre under Part 4A of FSMA for failures to submit regulatory returns and to pay fees and levies.

<http://www.fca.org.uk/static/documents/final-notices/bexley-insurance-centre.pdf>

- The FCA has (on 12 August) cancelled the registration of Muhammed Irfan as a Small Payment Institution under the PSRs following failures by him to submit an application for the cancellation of that registration after the sale of his money remittance business.

<http://www.fca.org.uk/static/documents/final-notices/muhammad-irfan.pdf>

- The FCA has (on 11 August) cancelled the registration of Supercroft Trading Limited as a Small Payment Institution under the PSRs following its removal from the register maintained by HM Revenue & Customs, which regulates it for anti-money laundering purposes pursuant to the Money Laundering Regulations 2007.

<http://www.fca.org.uk/static/documents/final-notices/supercroft-trading-limited.pdf>

- The FCA has (on 8 August) cancelled the authorisation of Go Transfer Limited as an Authorised Payment Institution under the PSRs following a failure to notify a change of address.

<http://www.fca.org.uk/static/documents/final-notices/go-transfer-limited.pdf>

Consumer credit business agrees to cease taking on new customers

The FCA has (on 14 August) released details of an agreement reached with Bournes Limited imposing a

requirement for it and its appointed representatives to cease taking on new customers for debt management business. It is the latest in a succession of similar agreements entered into with firms with interim permission to conduct consumer credit business since the FCA assumed responsibility for the sector in April 2014.

<http://www.fca.org.uk/static/documents/requirement-notices/bournes-limited-vreq.pdf>

FCA review finds consumer credit financial promotion shortcomings

Further to its guidance issued last week in relation to the use of social media for financial promotions (see This week at the UK regulators, 11 August), the FCA has (on 13 August) issued a release setting out its view that consumer credit firms in particular need to do more to ensure financial promotions do not mislead customers. It gives details of the review of over 1,500 consumer credit financial promotions it has conducted since April, indicating that it has opened 227 cases about non-compliant promotions for products such as payday loans, debt management services and credit brokers. It has set out its view that firms in the sector should do more to raise standards and has confirmed that it will continue to monitor levels of compliance, although it adds that firms contacted to date in response to complaints from the public, the Advertising Standards Authority and other organisations have responded positively and made necessary changes quickly.

<https://onlineservices.cliffordchance.com/online/freeDownload.action?key=OBWlbFgNhLNomwBI%2B33QzdFhRQAhp8D%2BxrlGRel2crGqLnALtlyZe80s8dU0b76LFGIGwcv3Hbp%0D%0A5mt12P8Wnx03DzsaBGwsIB3EVF8XihbSpJaxHNE7tFeHpEbaelf&attachmentsize=160796>

<http://www.fca.org.uk/news/fca-says-firms-must-do-more-to-ensure-financial-promotions-do-not-mislead>

FCA warnings

Name of firm	Date of warning	Details
Cash One Finance	13 August 2014	Not authorised http://www.fca.org.uk/news/warnings/cash-one-finance
Atlantic Mutual Int Ltd	12 August 2014	Clone firm http://www.fca.org.uk/news/warnings/atlantic-mutual-int-ltd-clone
Pawlaks Group Asset Management	12 August 2014	Clone firm http://www.fca.org.uk/news/warnings/pawlaks-group-asset-management-clone
Dolphin Capital Investors UK Limited	12 August 2014	Not authorised http://www.fca.org.uk/news/warnings/dolphin-capital-investors-uk-limited
Cloud 9 Loans	12 August 2014	Clone firm http://www.fca.org.uk/news/warnings/cloud-9-loans-clone-cc

Policy developments

FCA		PRA	
Proposed developments			
		Deadline for responses	
Consultation papers		7 November 2014	The PRA has (on 11 August) published a consultation paper (CP16/14) on the transposition of Solvency II http://www.bankofengland.co.uk/pradocuments/publications/cp/2014/cp1614.pdf

Further Afield

OSCE report highlights use of financial system for human trafficking

The Organization for Security and Co-operation in Europe ("OSCE") has published a report illustrating the ways in which financial institutions may unwittingly be concerned in laundering the proceeds of human trafficking and setting out their role in helping to detect and prevent it. The report points to the ways in which organisations subject to anti-money laundering obligations can use the due diligence and monitoring checks they are required to undertake in any event to detect and prevent the laundering of the proceeds of human trafficking, which are estimated to amount to over US\$150 billion per annum. Amongst the resources identified by OSCE are those produced and offered by Finance against Trafficking, a UK based organisation which works to raise awareness of the risks associated with human trafficking for businesses in the financial services sector and provides practical advice as to how to identify and mitigate those risks.

<http://www.osce.org/secretariat/121125?download=true>

<http://financeagainsttrafficking.org/steering-group>

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