

This week at the UK regulators

Thirty second guide: The week in overview

No enforcement actions were concluded last week, although the FCA released details of its decision to impose a financial penalty of over £290,000 and a prohibition order on a former adviser for alleged integrity failings relating the circumstances in which he sold risky products to investors, made investments on their behalf and dealt with the FCA during its investigation. That action has been referred to the Upper Tribunal.

Although neither the FCA nor the PRA issued any policy pronouncements, the Treasury Select Committee's well publicised report into the circumstances of the collapse of the Project Verde transaction has yielded some important indications of the FCA's continued appetite for tightening individual accountability requirements across all parts of the financial services industry. The publication of the committee's report and the statement in evidence by the FCA's Director of Supervision that the FCA would have preferred the Senior Managers and Certification regimes to have allied to all financial services firms, not only banks, may catalyse debate about further reforms and the possible replacement of the current approved persons regime.

Further afield, the US Securities and Exchange Commission has released details of a settlement agreed with the brother of the former principal of Galleon Management, taking the number of concluded actions associated with insider trading at the hedge fund to 35.

Treasury Select Committee report calls for extension of new individual accountability regimes

The Treasury Select Committee has (on 23 October) published its report on the collapse of Project Verde, the planned divestment of part of Lloyds Banking Group's business to the Co-operative Bank PLC. In addition to its well publicised findings in relation to the circumstances of the collapse of the proposed transaction, the committee has also expressed its view that the Senior Managers and Certification regimes, which will cover the conduct of individuals within banks, should be extended to cover other parts of the financial services industry such as asset managers and insurers and should replace the current approved persons regime. This follows previous similar statements by Andrew Tyrie, the committee's Chairman (who also chaired the Parliamentary Commission on Banking Standards, which made recommendations upon which the Senior Managers and Certification regimes were largely based) during the progress of the Financial Services (Banking Reform) Act 2013 through Parliament.

The report quotes a statement by Clive Adamson, Director of Supervision at the FCA (in response to questioning by Mr Tyrie, at question 1434), indicating that the FCA would have preferred for the Senior Managers and Certification

regimes to have covered all financial institutions. Although he did not commit the FCA to consulting on extending the new regimes to and/or replacing the approved persons regime for other types of institutions, his comments may be seen as an indicator that it and the PRA may seek to do so in future.

For full details of the Senior Managers and Certification regimes, see our Clifford Chance briefing.

<http://www.publications.parliament.uk/pa/cm201415/cmselect/cmtreasy/728/728.pdf>

<http://www.publications.parliament.uk/pa/cm201415/cmselect/cmtreasy/728/728-ii.pdf>

<https://onlineservices.cliffordchance.com/online/freeDownload.action?key=OBWlbfGnLNomwBI%2B33QzdFhRQAhp8D%2BxrlGRel2crGqLnALtlyZewet0VxQq6haz3H0H4hmJ9np%0D%0A5mt12P8Wnx03DzsaBGwsIB3EVF8XihbSpJa3xHNE7tFeHpEbaelf&attachmentsize=416506>

FCA decides to fine and ban adviser for alleged integrity failings

The FCA has issued a Decision Notice (dated 5 December 2013 and published on 23 October) to Mr Paul Reynolds, a director of a company which acted as an appointed representative and who, until January 2013, held CF21

(investment adviser) approved person status. The notice sets out the FCA's view that, between 2005 and 2010, Mr Reynolds breached Principle 1 (integrity) of the Statements of Principle for Approved Persons by recklessly recommending to clients that they invest in unregulated collective investment scheme ("UCIS") and geared traded endowment policy ("GTEP") products which were not suitable for their risk appetites, and that he made investments without clients' knowledge or authorisation, falsified some documents, misrepresented others as contemporaneous documents and made false and misleading statements in interviews with the FCA.

The FCA has set out its findings that he lacks honesty and integrity and therefore should be the subject of a prohibition order, and its decision to impose a financial penalty of

£290,344 on him. Mr Reynolds has referred the matter to the Upper Tribunal. A hearing date is awaited.

<http://www.fca.org.uk/static/documents/decision-notices/paul-reynolds.pdf>

FCA imposes short selling prohibition

On 21 October, the FCA imposed a temporary prohibition on short selling in shares in Portugal Telecom, SGPS S.A. following a decision made by the Portuguese regulator, the Comissão do Mercado de Valores Mobiliários. The prohibition was subsequently extended until 23.59 on 23 October, but has not been extended further.

<http://www.fca.org.uk/news/temporary-prohibition-of-short-selling-portugal-telecom>

FCA warnings

Name of firm	Date of warning	Details
Fidelity Capital Ltd / Fidelity Capital UK	24 October 2014	Cloned firm http://www.fca.org.uk/news/warnings/fidelity-capital-ltd-clone
Burton Capital Partners	23 October 2014	Not authorised http://www.fca.org.uk/news/warnings/burton-capital-partners
Fast Same Day Loans	23 October 2014	Clone firm http://www.fca.org.uk/news/warnings/fast-same-day-loans-clone
Crown Capital Management	23 October 2014	Not authorised http://www.fca.org.uk/news/warnings/crown-capital-management
Houlihan Lokey	21 October 2014	Clone firm http://www.fca.org.uk/news/warnings/houlihan-lokey-clone
Cruiser Trading Co Ltd	20 October 2014	Clone firm http://www.fca.org.uk/news/warnings/cruiser-trading-co-ltd-clone
Migham Credit Finance	20 October 2014	Not authorised

Limited		http://www.fca.org.uk/news/warnings/migham-credit-finance-limited
Schwarz Oliver Thomas	20 October 2014	Clone firm http://www.fca.org.uk/news/warnings/schwarz-oliver-thomas-clone

Further Afield

SEC secures further penalties for Galleon insider dealing

In the latest chapter of its action in respect of insider trading by individuals associated with Galleon Management, the US Securities and Exchange Commission ("SEC") has (on 23 October) agreed a settlement with Mr Rajarengan ("Rengan") Rajaratnam, which will require him to pay US\$840,000 and will result in him being barred from the securities industry. He is the brother of Mr Raj Rajaratnam, who was in October 2011 sentenced to 11 years' imprisonment and ordered to pay civil and criminal penalties totalling over US\$150 million. The SEC's action was based on allegations that Mr Rajarengan Rajaratnam, whilst a portfolio manager at Galleon Management, engaged in insider trading in shares in more than 15 companies, making gains of almost US\$100 million. Under the settlement, which awaits court approval, Mr Rajarengan Rajaratnam neither admits nor denies the allegations made by the SEC. The settlement brings the total number of defendants pursued by the SEC for Galleon related infringements to 35, and the total amount of monetary sanctions imposed to approximately US\$165 million.

<http://www.sec.gov/News/PressRelease/Detail/PressRelease/1370543274751>

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