

This week at the UK regulators

Thirty second guide: The week in overview

In addition to the fines imposed on a number of banks by the FCA and PRA for an IT failure in June 2012 in the first action they have concluded jointly, the FCA has imposed a penalty on a financial advisory firm for failings relating to the sales of risky Keydata products.

Away from enforcement action, the FCA has published the findings of a thematic review into complaints handling processes and has given details of agreements reached with a group of firms and other interested parties about improvements to processes which it hopes will be replicated across the financial services industry. It has also released details of an order made in the High Court where it has used its powers to seek restitution to distribute funds to investors in a Ponzi scheme.

Further afield, HM Treasury has released details of a draft statutory instrument aimed at extending the scope of the new individual accountability regimes for bank employees announced by the FCA and PRA earlier this year to UK branches of overseas banks

FCA and PRA impose penalty for IT failures

As has been widely reported in the press, the FCA and PRA have (on 19 November) imposed financial penalties of £42 million and £14 million respectively on Royal Bank of Scotland PLC, National Westminster Bank PLC and Ulster Bank Limited in respect of IT failure which occurred in June 2012. The FCA found that the banks breached Principle 3 (management and control) of the Principles for Businesses ('the Principles') through failing to put in place adequate systems and controls to prevent the issue, whose actual cause was due to software compatibility, from occurring.

The action is the first to be concluded jointly by the FCA and the PRA.

The penalties imposed on the banks were reduced by 30 per cent as the banks settled at an early stage.

<http://www.fca.org.uk/static/documents/final-notice/rbs-natwest-ulster-final-notice.pdf>

FCA fines firms for Keydata sales failings

The FCA has (on 17 November) imposed a financial penalty of £560,000 on Chase de Vere Independent Financial Advisers Limited ("Chase de Vere") for breaches

of Principles 3 (management and control) and 7 (communications with clients) of the Principles and rules contained in the Senior Management Arrangements, Systems and Controls and Conduct of Business Sourcebook sections of the Handbook and the Conduct of Business rules (as in force at the time). The FCA found that Chase de Vere breached these provisions between August 2005 and June 2009 by failing to put in place adequate systems and controls to ensure that the particular features of risky products designed and distributed by Keydata Investment Services Limited were suitably researched and to ensure that the features of these products were disclosed to customers in a way that was clear, fair and not misleading.

The penalty imposed was reduced by 30 per cent as Chase de Vere agreed to settle at an early stage.

<http://www.fca.org.uk/static/documents/final-notice/chase-de-vere-independent-financial-advisers-limited.pdf>

High Court rules on distribution of Ponzi scheme funds to depositors

The FCA has (on 19 November) published details of an order obtained in the High Court on 5 November and the associated judgment (handed down on 28 October) in a case concerning an illegal deposit taking scheme operated by John Anderson, Kenneth Peacock and Kautilya Nandan

Pruthi. These individuals were ordered to pay £13.2 million, £11.6 million and £89.8 million respectively in 2010, but failed to do so, leading to them being declared bankrupt. The order now published sets out the scheme for distribution of available funds to depositors.

The proceedings subsequently pursued by the FCA are thought to be the first occasion it has used its powers to seek restitution under section 382 of the Financial Services and Markets Act 2000 in circumstances such as these.

<http://www.fca.org.uk/news/further-call-to-clients-of-anderson-peacock-and-pruthi>

<http://www.fca.org.uk/static/documents/high-court-order-anderson-peacock-pruthi.pdf>

<http://www.fca.org.uk/static/documents/high-court-judgment-anderson-peacock-pruthi.pdf>

FCA agrees changes to complaints handling with firms

The FCA has (on 17 November) released the findings of a thematic review into consumer complaints handling. The review considered processes at 15 major retail financial services firms. Its findings have already been discussed by a working group chaired by the FCA and also including representatives of these firms and five trade bodies. The group also considered the views of consumer groups and the Financial Ombudsman Service.

The review, which did not consider PPI complaints handling processes, found improvements including heightened levels of engagement from senior management and understanding of client concerns amongst staff but also pointed to areas for future improvement in design and implementation of processes, inconsistencies in levels of redress offered and approaches to root cause analysis.

The FCA has agreed changes to processes with those firms involved, and has invited all other firms to make similar changes. It has indicated that it intends to consult formally on changes to rules and guidance later this year based on recommendations made by the working group.

<http://www.fca.org.uk/static/documents/thematic-reviews/tr14-18.pdf>

Further Afield

HM Treasury consults on extension of individual accountability regimes to UK branches of overseas banks

HM Treasury has published a draft statutory instrument which, if passed, will bring UK branches of overseas banks within the scope of the Senior Managers and Certification regimes and conduct rules due to come into force in 2015.

The proposed order and accompanying short consultation paper builds on the lengthy and detailed consultation paper and draft rules and guidance on individual accountability published jointly by the FCA and PRA in August 2014.

For full details of HM Treasury's proposals, see our Clifford Chance briefing.

For full details of the proposals in relation to UK banks, which are set out in the Financial Services (Banking Reform) Act 2013 ("FSBRA") and which emanate from the recommendations of the Parliamentary Commission on Banking Standards, see our previous Clifford Chance briefing in October 2014.

<https://www.gov.uk/government/consultations/regulating-individual-conduct-in-banking-uk-branches-of-foreign-banks/regulating-individual-conduct-in-banking-uk-branches-of-foreign-banks>

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/372460/Financial_Services_and_Markets_Act_2000_relevant_authorised_persons_Order_2015.pdf

http://www.cliffordchance.com/briefings/2014/11/branching_out_ukgovernmentsetsoutplanst.html

<https://onlineservices.cliffordchance.com/online/freeDownload.action?key=OBWlbFgNhLNomwBI%2B33QzdFhRQAhp8D%2BxrlGRel2crGqLnALtlyZewet0VxQq6haz3H0H4hmJ9np%0D%0A5mt12P8Wnx03DzsaBGwsiB3EVF8XihbSpJa3xHNE7tFeHpEbaelf&attachmentsize=416506>

FCA warnings

Name of firm	Date of warning	Details
OCB Corporation	21 November 2014	Clone firm http://www.fca.org.uk/news/warnings/ocb-corporation-clone
IHarrison & Stanley Associates	19 November 2014	Not authorised http://www.fca.org.uk/news/warnings/harrison-stanley-associates
Fondia Group/ Fondia Investment Management	18 November 2014	Not authorised http://www.fca.org.uk/news/warnings/fondia-group
CFSE/ Cargill Financial Services Europe / FXCFSE	17 November 2014	Clone firm http://www.fca.org.uk/news/warnings/cfse-cargill-financial-services-europe-fxcfse-clone

Policy developments

FCA		PRA	
Proposed developments			
		Deadline for responses	
Consultation papers	The PRA has (on 21 November) published a consultation paper (CP24/14 detailing further measures for the implementation of Solvency II. http://www.bankofengland.co.uk/pradocuments/publications/cp/2014/cp2414.pdf	30 January 2015	

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