Briefing note

27 April 2015

This week at the UK regulators

Thirty second guide: The week in overview

In another active week for FCA enforcement teams, substantial penalties have been imposed on firms for failings relating to LIBOR submissions and breaches of transaction reporting rules. In a case leading to the imposition of a smaller penalty, but which is still significant as an indicator of the FCA's focus on issues relating to culture and governance, an insurance firm has been fined for failings relating to the sale of vehicle insurance add-on products.

The FCA has also announced details of a proposed compensation scheme for customers who have purchased some card protection products following an agreement reached with the firm concerned and 11 banks and credit card issuers in January.

Further afield, last week saw the arrest of a trader accused of contributing to the "flash crash" in 2010 and the commencement of extradition proceedings against him, and the conclusion of a case in which the UK Supreme Court has emphasised the money laundering disclosure obligations of banks.

FCA takes action for benchmark rate failings

As has been extensively reported in the press, the FCA has (on 23 April) imposed a financial penalty on Deutsche Bank AG ("Deutsche Bank") of £227 million for breaches of Principles 5 (market conduct), 3 (management and control) and 11 (relations with regulators) of the Principles for Businesses in connection with submissions made in relation to the London Interbank Offered Rate ("LIBOR") and Euro Interbank Offered Rate ("EURIBOR") benchmarks between January 2005 and December 2010. Settlements in associated investigations have also been reached with the US Department of Justice, the Commodities and Futures Trading Commission and the New York State Department of Financial Services.

The amount of the penalty imposed was reduced by 30 per cent as Deutsche Bank agreed to settle at an early stage of the FCA's executive settlement procedure.

The FCA has now concluded eight enforcement cases against firms in connection with conduct relating to LIBOR and EURIBOR submissions and has levied financial penalties totalling over £700 million.

http://www.fca.org.uk/static/documents/final-notices/deutsche-bank-ag-2015.pdf

FCA takes further action for transaction reporting breaches

The FCA has (on 22 April) imposed a financial penalty of £13,285,900 on Merrill Lynch International ("MLI") for breaches of rules contained in the Supervision ("SUP") section of its Handbook relating to transaction reporting between November 2007 and November 2014. The FCA found inaccuracies in the counterparties identified in some reports and failures to make reports and incorrect use of the buy/sell indicator in respect of some transactions.

The action is the latest in a succession of enforcement cases pursued against firms for similar breaches of transaction reporting rules. In a move illustrating its power to vary the level of penalties where it wishes to send a deterrent message to the industry, it has increased the metric for quantifying "harm" in cases involving transaction reporting breaches after the introduction of revised rules dealing with penalty calculation (set out in its Decision Procedures and Penalties Manual) from £1 to £1.50 per breach.

The penalty imposed was reduced by 30 per cent as MLI agreed to settle at an early stage of the FCA's investigation. The FCA's Final Notice acknowledges the co-operation provided by MLI during its investigation and the fact that MLI self-reported breaches and has devoted resources to ensuring accurate transaction reporting, including establishing a dedicated working group and commissioning a review by a professional services firm.

http://www.fca.org.uk/static/documents/final-notices/merrill-lynch-international.pdf

FCA fines insurance firm for mis-selling and culture failings

The FCA has (on 22 April) imposed a financial penalty of £159,300 on Moorhouse Group Limited ("Moorhouse") for breaches of Principles 3 (management and control) and 7 (conflicts of interest) of the Principles for Businesses. The FCA found that, during 2012, Moorhouse failed to disclose appropriate information about the limitations and exclusions of vehicle add-on insurance products and did not ensure that a consistent and effective quality assurance process was in place to monitor telephone sales. It also found that the Board and senior management did not devote sufficient attention to compliance issues.

The FCA has required Moorhouse to communicate the outcome of its investigation to customers who purchased vehicle add-on insurance products during 2012.

The penalty imposed was reduced by 30 per cent as Moorhouse agreed to settle at an early stage of the FCA's investigation.

http://www.fca.org.uk/static/documents/final-notices/moorhouse-group.pdf

FCA releases details of card protection product compensation scheme

Further to its announcement in January that it had reached agreement with Affinion International Limited and 11 other high street banks and credit card issuers for compensation to be paid to customers in relation to historic sales of various card protection products, the FCA has now released details of how it anticipates the scheme will work. For details of the agreement reached, see This week at the UK regulators, 2 February 2015.

Eligible customers will be invited to vote on whether they agree with the proposed scheme, and it is expected that, if the scheme is approved, claim forms will be sent out in August or September this year.

http://www.fca.org.uk/news/compensation-package-agreed-for-consumers-sold-card-security-products

https://onlineservices.cliffordchance.com/online/freeDownload.action?key=OBWIbFgNhLNomwBl%2B33QzdFhRQAhp8D%2BxrIGReI2crGqLnALtlyZe72g2eTD6%2FPACNZU8kajKy%2Fp%0D%0A5mt12P8Wnx03DzsaBGwsIB3EVF8XihbSpJa3xHNE7tFeHpEbaelf&attachmentsize=127888

http://www.fca.org.uk/news/affinion-scheme-for-card-security-product-holders

FCA warnings

Name of firm	Date of warning	Details
UBS Global Asset Management Funds Ltd	24 April 2015	Clone firm http://www.fca.org.uk/news/warnings/ubs-global-asset-management-funds-ltd-clone
Oakwood Financial Management LLP	22 April 2015	Clone firm http://www.fca.org.uk/news/warnings/oakwood-financial-management-llp-clone

Policy developments

	FCA			PRA
		Finalised policy and guidance		
		Implementation /effective date		
Supervisory statements			22 April 2015	The PRA has (on 22 April) published a supervisory statement (SS 22/15) on the application of EIOPA's Set 1 guidelines to PRA authorised firms. http://www.bankofengland.co.uk/pra/Documents/publications/ss/2015/ss2215.pdf

Further afield

US authorities seek extradition of "Hound of Hounslow"

As has been widely reported in the press, Mr Navinder Singh Sarao, a trader operating from his parents' house in West London, consequently dubbed the "Hound of Hounslow" appeared before Westminster Magistrates' Court on 22 April as part of extradition proceedings pursued on behalf of the US Department of Justice. Mr Sarao faces allegations that he contributed to the "flash crash" in 2010, which is estimated to have temporarily wiped six per cent off the value of US stock markets in May 2010, through "layering" and "spoofing". His conduct is alleged to have constituted wire fraud and other securities based offences in the US.

He was granted bail on condition of the payment of a surety of £5 million, although reports indicate that he has remained in custody as payment has not yet been made. The proceedings continue.

UK Supreme Court emphasises banks' money laundering disclosure obligations

The UK Supreme Court has (on 23 April) handed down a judgment clarifying the circumstances in which monies constitute "criminal property" under the Proceeds of Crime Act 2002. The case underlines the breadth of the disclosure obligations of banks and other businesses operating in the regulated sector.

Case reference: R v GH [2015] UKSC 24

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