CLIFFORD CHANCE

Briefing note 22 June 2015

This week at the UK regulators

Thirty second guide: The week in overview

The main enforcement development last week was the imposition of a financial penalty of £6.64 million on a listed company for breaches of the Listing Principles, Listing Rules and Disclosure and Transparency Rules for related party transaction systems and controls issues. In the criminal courts, following prosecutions by the FCA in separate cases concerning unauthorised collective investment schemes, one individual was sentenced to six years and nine months imprisonment, bring the total sentences for the eight individuals convicted to over 32 years, whilst the two year sentence imposed on another individual in January following conviction for similar offences was upheld by the Court of Appeal.

Away from enforcement developments, the FCA has issued two separate calls for inputs inviting views on innovation in relation to mobile and digital solutions and industry views on payment account terms and definitions.

Further afield, a report published by IOSCO has endorsed the FCA's credible deterrence approach to enforcement and identified the key elements of an effective enforcement programme, whilst the Chair of the US Securities and Exchange Commission has indicated that the US regulator is watching carefully the implementation of the new individual accountability regimes in the UK.

FCA imposes fine for transparency rule breaches

The FCA has (on 12 June) imposed a financial penalty of £6,644,641 on Asia Resource Minerals PLC ("ARM") (formerly Bumi PLC) for breaches of various of the Listing Principles, Listing Rules and Disclosure and Transparency Rules between June 2011 and July 2013. The action related to failures to maintain systems and controls to identify and deal appropriately with related party transactions.

The penalty imposed, which was calculated by reference to the related party transactions concerned, was reduced by 30 per cent as ARM settled at stage one of the FCA's executive settlement procedures.

This is the second concluded enforcement case relating to breaches of related party transaction rules. The first led to the imposition of a financial penalty of £292,950 on Exillon Energy PLC in April 2012.

http://www.fca.org.uk/static/documents/final-notices/asia-resource-minerals.pdf

http://www.fsa.gov.uk/static/pubs/final/exillon-energy.pdf

One individual jailed for unauthorised business offences…

On 19 June, following his conviction for various offences on 29 May 2015 in respect of his involvement in an unauthorised collective investment, or land banking, schemes, Mr Adam Hawkins was sentenced to six years and nine months imprisonment. The FCA has estimated that 110 investors lost approximately £4.3 million in connection with the schemes, which operated through sales by three firms, Plott UK, European Property Investments (UK) Limited and Stirling Alexander Limited. The eight individuals convicted in connection with the schemes have now been sentenced to a total of 32 years and nine months imprisonment. The FCA has indicated that it has commenced confiscation proceedings against all eight individuals.

http://www.fca.org.uk/news/individual-sentenced-for-role-in-operating-unauthorised-collective-investment-scheme

http://www.fca.org.uk/news/eight-convicted-for-role-in-unauthorised-collective-investment-scheme

…and another's sentence upheld by the Court of Appeal

Also on 19 June, the Court of Appeal has dismissed an appeal against sentence pursued by Mr Raj von Badlo, who was sentenced to two years imprisonment in January 2015 following his conviction for various offences in connection with an unauthorised collective investment scheme. The FCA has indicated that it has commenced confiscation proceedings against Mr von Badlo.

http://www.fca.org.uk/news/court-of-appeal-upholds-sentence-against-raj-von-badlo

Other notices

The FCA has (on 17 June) published a Final Notice issued to Eldonian Group PLC in relation to the refusal of an application for a consumer credit licence.

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

The FCA has (on 17 June) published details of an application for a voluntary imposition of a requirement by PDHL Limited requiring it to cease taking on new business.

http://www.fca.org.uk/static/documents/discussion-papers/pdhl-vreq.pdf

FCA reaches out on digital and mobile solutions

As part of its Project Innovate initiative, the FCA has (on 17 June) published a call for inputs asking interested parties for their views on regulatory barriers to innovation in digital and mobile solutions. It has asked respondents, not limited to those in the financial services sector but also including, for example, telecoms, technology and software companies for their views by 7 September 2015.

http://www.fca.org.uk/static/fca/documents/call-for-input-regulatory-barriers-to-innovation.pdf

FCA seeks industry views on payment account provisions

In a separate call for inputs (also published on 17 June), the FCA has asked interested parties for their views as to the key services to be included on a list of those linked to payment accounts which are subject to a fee. The FCA is required to maintain this list of the 10 to 20 "most representative services" linked to payment accounts in the UK under the EU Payment Accounts Directive. The FCA has also asked respondents for their views on key definitions and terms used to describe these services. It has invited responses by 17 July 2015.

http://www.fca.org.uk/static/documents/call-for-input-payment-accounts-services.pdf

FCA warnings

Name of firm	Date of warning	Details
Akasaka Acquisition Group	17 June 2015	Not authorised http://www.fca.org.uk/news/warnings/akasaka-acquisition-group
UBS Wealth Management/ UBS Global Wealth Management	17 June 2015	Clone firm http://www.fca.org.uk/news/warnings/ubs-wealth-management-clone
Garnier Global Finance	15 June 2015	Clone firm http://www.fca.org.uk/news/warnings/garnier-global-finance-clone

Policy developments

FCA				PRA
Proposed developments				
		Deadline for responses		
Guidance consultantion	Further to consultation in October 2014 (in consultation paper CP 14/22), the FCA has (on 18 June) published a guidance consultation paper (GC 15/4) on its registration function under the Co-operative and Community Benefit Societies Act 2014. http://www.fca.org.uk/static/documents/consultation-papers/cp1422.pdf http://www.fca.org.uk/static/documents/guidance-consultations/gc15-04.pdf			
Finalised policy and guidance				
		Implementation /effective date		
Supervisory statements				The PRA has (on 15 June) published two supervisory statements in relation to Solvency II on regulatory reporting and internal model outputs (SS 25/15) and ORSA and the ultimate time horizon for non-life firms (SS 26/15). http://www.bankofengland.co.uk/pra/Docum

				ents/publications/ss/2015/ss2515.pdf http://www.bankofengland.co.uk/pra/Documents/publications/ss/2015/ss2615.pdf

Further afield

IOSCO recommends credible deterrence approach to regulators worldwide

In a report published on 17 June, a committee of the International Organization of Securities Commissions ("IOSCO") chaired by the FCA has extolled the virtues of the credible deterrence approach to enforcement taken by the FCA, and has identified seven key characteristics of an effective enforcement programme.

http://www.iosco.org/library/pubdocs/pdf/IOSCOPD490.pdf

SEC keeping a watching brief on UK individual accountability regimes

Press reports this week suggest that the US Securities and Exchange Commission ("SEC") is closely monitoring the implementation of the new individual accountability arrangements due to enter into force in the UK in March 2015. The regimes comprise the Senior Managers Regime imposing a presumption of responsibility for individuals in charge of particular areas of banks' (and some other firms') activities, requirements for firms to certify a large proportion of their staff as fit and proper at least annually and new Conduct Rules. Mary Jo White, Chair of the SEC, speaking at an IOSCO conference in London on 17 June, is reported to have described the new arrangements in the UK as "intriguing".

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