

# This week at the UK regulators

## Thirty second guide: The week in overview

Enforcement developments last week were limited to five Final Notices published in relation to relatively minor cases. The most significant of these saw the final conclusion of long running action against an individual, with a prohibition order based on fitness and propriety concerns imposed following unsuccessful attempts to refer the matter first to the Upper Tribunal and then to the Court of Appeal.

August has also been characteristically quiet in terms of policy developments from the FCA or PRA, although the indications are that the rest of 2015 will be busy in this area. The FCA and HM Treasury have launched a review of financial advice and the FCA has heralded a number of significant policy indications in relation to areas including the new individual accountability regimes and the application of the EU Market Abuse Regulation in its regular Policy Development Update.

The FCA has also published responses to some questions asked at its second annual public meeting, which discussed its 2014/15 Annual Report and has made available slides from its seminar on "European Market Infrastructure Regulation: The obligation to clear and margin OTC derivative trades".

Further afield, the US Securities and Exchange Commission adopted registration rules for security-based swap dealers and major security-based swap participants and a rule for pay ratio disclosure requiring a public company to disclose the ratio of the compensation of its CEO to the median compensation of its employees.

## Enforcement Notices

On 7 August, the FCA published a Final Notice (effective from 17 July 2015) imposing a prohibition order on Mr Ghanshyam Sarup Batra following findings that he is not fit and proper based on failures to be open and co-operative and conduct demonstrating a lack of integrity. The action related to the submission of mortgage applications by Mortgage 10 Limited ("M10"), a mortgage and general insurance broker firm of which Mr Batra was the director, controller and approved person.

In its decision of 13 May 2014, the Upper Tribunal dismissed Mr Batra's reference of the original Decision Notice and directed the Authority to issue a final notice to Mr Batra imposing a prohibition order. The Tribunal noted that M10 had been dissolved after the reference. Although it therefore did not need to determine whether to withdraw Mr Batra's approval in respect of M10, it stated that had M10 still been in existence, it would have confirmed the FCA's decision to withdraw Mr Batra's approval to perform controlled functions at M10.

On 31 March 2015, the Court of Appeal refused Mr Batra's application for permission to appeal the Upper Tribunal's substantive decision.

<http://www.fca.org.uk/your-fca/documents/final-notices/2015/ghanshyam-sarup-batra>

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

In Final Notices issued in relation to separate cases on 5 August 2015, the FCA has cancelled the permissions of United Forex Limited and Anseba Cafe & International Exchange Limited as Small Payment Institutions under the Payment Services Regulations 2009. Both actions related to failures to submit the FSA057 (Payment Services Directive Transactions) return for the period ended 31 December 2014 and to respond adequately to repeated requests from the FCA.

<http://www.fca.org.uk/your-fca/documents/final-notices/2015/united-forex-limited>

<http://www.fca.org.uk/static/documents/final-notices/anseba-cafe-international-exchange-limited.pdf>

In Final Notices issued in relation to separate cases on 5 August 2015, the FCA has cancelled the permissions of Mountbatten Financial Limited and MGI Asset Management Limited. Both actions related to findings that the institutions breached Principle 11 (relations with regulators) of the

Principles for Businesses by failing to pay overdue balances of fees and levies due to the FCA and failing to respond to repeated requests for outstanding balances.

<http://www.fca.org.uk/your-fca/documents/final-notice/2015/mountbatten-financial-limited>

<http://www.fca.org.uk/your-fca/documents/final-notice/2015/mgi-asset-management-limited>

### **FCA and HM Treasury launch Financial Advice Market Review**

The FCA and HM Treasury ("HMT") have (on 3 August) announced that they will be conducting a review of how financial advice could work better for consumers of financial services. The review will be co-chaired by Tracey McDermott, who will take over as Acting CEO of the FCA from 12 September, and Charles Roxburgh, Director – General of Financial Services at HMT, and will have a separate expert advisory panel. Its terms of reference disclose a wide remit covering consumers' experiences of advice in relation to a range of products and the interplay between the regulatory framework and the roles of the Financial Ombudsman Service and the Financial Services Compensation Scheme ("FSCS").

The review will publish a consultation paper during autumn 2015 with a view to the consultation exercise being completed by the end of 2015 and a final report being issued ahead of Budget 2016.

<https://www.gov.uk/government/publications/financial-advice-market-review-terms-of-reference/financial-advice-market-review-terms-of-reference>

### **FCA answers questions from 2015 Annual Public Meeting**

On 22 July 2015, the FCA held its second annual public meeting in London to discuss its 2014/15 Annual Report and how it delivered against its strategic objective to make markets work well, as well as its three operational objectives. It has now published a transcript of the opening remarks by John Griffith Jones (FCA Chairman), a speech by Martin Wheatley (FCA CEO), a question and answer session and post event answered questions.

The FCA chose to publish written answers rather than to respond substantively at the meeting to questions on areas

including bank penalties, the review of interest rate hedging products, the UK's implementation of MiFID, the FCA's approach to its level of regulation, the authorisation application process, post-trade compliance and surveillance in detecting and deterring market abuse, Financial Services Compensation Scheme costs and self-evaluation of thematic reviews and market studies.

<https://www.fca.org.uk/events/conferences/fca-annual-public-meeting-2015>

### **FCA publishes slides from EMIR seminar**

The FCA has published the slides presented at a seminar given last month in relation to the European Market Infrastructure Regulation ("EMIR"), which came into force during 2013 and 2014 and imposes requirements on all types and sizes of entities that enter into any form of derivative contract, including those not involved in financial services. It applies indirectly to non-EU firms even when trading with EU firms.

<http://www.fca.org.uk/your-fca/documents/emir-the-obligation-to-clear-and-margin-otc-derivative-trades>

### **FCA publishes Policy Development Update**

The FCA has (on 7 August) published its Policy Development Update. Amongst the most significant forthcoming publications the FCA expects to publish in the short to medium term are rules and policy statements in relation to whistleblowing in deposit-takers, PRA-designated investment firms and insurers, regulatory fees and levies, changes relating to the introduction of new individual accountability regimes for banks and insurers and amendments to Handbook text to implement the EU Market Abuse Regulation.

It has also indicated that other forthcoming publications will include the findings of reviews of client money rules for insurance intermediaries and proposed rule changes relating to "smarter consumer communications", the implementation of MiFID, consumer credit and amendments flowing from its market study on general insurance add-ons.

<http://www.fca.org.uk/your-fca/documents/handbook/policy-development-update-issue-25>

## FCA warnings

Name of firm	Date of warning	Details
Lamberg Kapital Ltd	5 August 2015	Not authorised <a href="http://www.fca.org.uk/news/warnings/lamberg-kapital-ltd">http://www.fca.org.uk/news/warnings/lamberg-kapital-ltd</a>
CFE Bourse	5 August 2015	Clone firm <a href="http://www.fca.org.uk/news/warnings/cfe-bourse-clone">http://www.fca.org.uk/news/warnings/cfe-bourse-clone</a>
VGF Wealth Management	5 August 2015	Clone firm <a href="http://www.fca.org.uk/news/warnings/vgf-wealth-management-clonen">http://www.fca.org.uk/news/warnings/vgf-wealth-management-clonen</a>

## Further afield

### SEC adopts new registration rules for swap dealers and participants

On 5 August 2015, the US Securities and Exchange Commission ("SEC") adopted new rules to provide "a comprehensive, efficient process" for security-based swap dealers and major security-based swap participants to register with the SEC in its final implementation of Title VII of Dodd-Frank Wall Street Reform and Consumer Protection Act. The new rules address all aspects of the registration regime for security-based swap dealers and major security-based swap participants, setting forth the extensive set of information required to be provided and kept up to date by a registrant. In addition, the rules require senior officers to make certifications about the registrant's policies and procedures for compliance with the federal securities laws at the time of registration. The new rules will be effective 60 days after they are published in the Federal Register.

The Commission also proposed a new rule of practice to create a process for security-based swap dealers and major security-based swap participants to apply to the Commission for permission to continue to have certain persons subject to statutory disqualifications involved in effecting their security-based swap transactions if such

continuation is consistent with the public interest. Comments on the proposal will be due 60 days after the proposal is published in the Federal Register.

<http://www.sec.gov/news/pressrelease/sec-adopts-registration-rules-for-security-based-swap-dealers.html>

### SEC Adopts Rule for Pay Ratio Disclosure

Also on 5 August 2015, SEC adopted a final rule that requires a public company to disclose the ratio of the compensation of its CEO to the median compensation of its employees. The new rule, mandated by the Dodd-Frank Wall Street Reform and Consumer Protection Act, provides shareholders with information they can use to evaluate a CEO's compensation, and will require disclosure of the pay ratio in registration statements, proxy and information statements, and annual reports that call for executive compensation disclosure. Companies will be required to provide disclosure of their pay ratios for their first fiscal year beginning on or after 1 January 2017.

The rule does not apply to smaller reporting companies, emerging growth companies, foreign private issuers, MJDS filers, or registered investment companies. The rule does provide transition periods for new companies, companies

engaging in business combinations or acquisitions, and companies that cease to be smaller reporting companies or emerging growth companies.

<http://www.sec.gov/news/pressrelease/2015-160.html>

The rule will be effective 60 days after publication in the Federal Register.

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