

This week at the UK regulators

Thirty second guide: The week in overview

The main regulatory enforcement development last week was the publication of a Final Notice against Craig McNeil, former Finance Director of Keydata, who was fined £350,000 and prohibited from performing any significant influence function, for failing to act with due skill care and diligence in the performance of his duties at Keydata and for failing to act in an open and co-operative manner with the FCA. Change has also been announced at the FCA with the appointment of acting Director of Enforcement, Georgina Philippou, to Chief Operating Officer, and the announcement of a new Chair of the RDC from January 2016.

Further afield, the European Securities and Markets Authority has published long awaited draft technical standards on the Market Abuse Regulation and it has been reported that the extradition hearing for Navinder Sarao, the British trader alleged to have committed market abuse contributing to the so-called "flash-crash", has been postponed for four months.

FCA publishes Final Notice against Keydata executive

On 22 September 2015 the FCA published a Final Notice against Craig McNeil, former Finance Director of Keydata Investment Services Ltd ('Keydata'), fining him £350,000 and prohibiting him from performing any significant influence function.

Keydata sold investment products to retail investors underpinned by bonds issued by SLS Capital S.A. ("SLS"), which invested in life settlement policies. From early 2008 SLS failed to make certain payments due to Keydata in respect of the bonds. Keydata then funded £4.2 million in income payments to investors from its own company resources.

The FCA found that Mr McNeil breached Principles 4 and 6 of the Authority's Statements of Principle and Code of Practice for Approved Persons ("APER"). The FCA found that Mr McNeil breached Principle 4 by failing to disclose to the FCA that SLS had failed to make payments to Keydata and breached Principle 6 by failing to act with due skill, care and diligence in relation to the purchase of a collateral portfolio of contestable life policies as security for Keydata's exposure to SLS.

Mr McNeil agreed to settle the FCA's investigation and therefore qualified for a 30% (stage 1) reduction in penalty.

On 26 May 2015 the FCA published Decision Notices for three other Keydata executives: Stewart Ford (CEO), Mark Owen (Sales Director) and Peter Johnson (Compliance

Officer). These cases have been referred to the Upper Tribunal (see This Week at the UK Regulators, 27 May 2015).

<http://www.fca.org.uk/news/fca-fines-and-prohibits-craig-mcneil>

<https://onlineservices.cliffordchance.com/online/freeDownload.action?key=OBWlbFgNhLNomwBI%2B33QzdFhRQAhp8D%2BxrlGRel2crGqLnALtlyZe4B8K3LsekjgzZHywghNSLTp%0D%0A5mt12P8Wnx03DzsaBGwsIB3EVF8XihbSpJa3xHNE7tFeHpEbaelf&attachmentsize=127634>

Georgina Philippou appointed to FCA's ExCo

On 22 September 2015 the FCA announced that acting Director of Enforcement, Georgina Philippou, has been appointed to the FCA's Executive Committee, as Chief Operating Officer, from November 2015. In June 2015 the FCA announced the appointment of Mark Steward, head of enforcement at the Hong Kong Securities and Futures Commission until last week, as new Director of Enforcement.

<http://www.fca.org.uk/news/fca-appoints-georgina-philippou-to-exco-as-chief-operating-officer>

FCA appoints new RDC members

On 21 September 2015 the FCA announced new members of the Regulatory Decisions Committee including a new Chair. Tim Parkes will become Chair of the RDC from January 2016.

<http://www.fca.org.uk/news/boards-appoint-new-committee-members>

FCA updates on forthcoming MIFID II and MAR consultations

On 25 September 2015 the FCA published the minutes of the MiFID II Implementation Roundtable which had taken place on 14 September 2015. The minutes record that the FCA timetable for its planned December 2015 consultation on Handbook changes relating to MiFID II may change due to lack of certainty in relation to the legislative timetable. The minutes also record that the FCA team dealing with the implementation of the EU Market Abuse Regulation ("MAR") is expected to issue its consultation paper on Handbook changes relating to MAR in late October or early November 2015.

<http://www.fca.org.uk/your-fca/documents/minutes-of-mifid-ii-implementation-roundtable-september-2015>

FCA warnings

Name of firm	Date of warning	Details
AT Brokers	25 September 2015	http://www.fca.org.uk/news/warnings/at-brokers-clone
Temple Crown International	25 September 2015	http://www.fca.org.uk/news/warnings/temple-crown-international

Policy developments

FCA		PRA		
Finalised policy and guidance				
		Implementation/effective date		
Policy statements	<p>Further to a consultation paper (CP 15/06) published in February 2015, the FCA has (on 28 September) issued a policy statement (PS 15/23) setting out changes to its rules and guidance in relation to consumer credit (and specifically in relation to credit broking, lending, financial promotions and debt).</p> <p>http://www.fca.org.uk/static/documents/policy-statements/ps15-23.pdf</p> <p>http://www.fca.org.uk/static/fca/documents/cp-15-06.pdf</p>	28 February/2 November		
	<p>Further to its market study on General Insurance Add-ons, the results of which were published in March 2014, and subsequent consultation in March 2015 on rules banning opt-out selling and improving information provided to customers buying add-ons (see consultation paper CP 15/13), the FCA has (on 28 September) issued a policy statement (PS 15/22) setting out final rules and guidance.</p> <p>http://www.fca.org.uk/static/documents/consultation-papers/cp15-13.pdf</p> <p>http://www.fca.org.uk/static/fca/documents/policy-statements/policy-statement-15-22-general-insurance-add-ons.pdf</p>	1 April 2016 (rules and Handbook guidance)/30 September 2016 (information provision non-Handbook guidance)		

Further afield

ESMA publishes MAR technical standards

The European Securities and Markets Authority ("ESMA") has (on 28 September) published its long awaited final report setting out draft regulatory technical standards and implementing technical standards in relation to MAR. The publication of these standards, follows a lengthy process of dialogue with interested parties, including through the publication of discussion and consultation papers in 2014.

<http://www.esma.europa.eu/content/Final-Report-MAR-TS>

http://www.esma.europa.eu/system/files/2013-1649_discussion_paper_on_market_abuse_regulation_0.pdf

https://www.esma.europa.eu/system/files/esma_2014-808_consultation_paper_on_mar_draft_technical_advice_0.pdf

"Flash crash" trader extradition hearing delayed

It has been reported that the extradition hearing for Navinder Sarao, the British trader whose extradition to the US is sought by the CFTC in connection with alleged abusive trading on the Chicago Mercantile Exchange, has been delayed for four months following the expansion of the allegations raised against him by the US authorities. The extradition hearing was due to start on 25 September 2015.

<http://www.ft.com/cms/s/0/09b0e2cc-637e-11e5-9846-de406ccb37f2.html#axzz3n1Q03ZoH>

Contacts

Roger Best
Partner

E: roger.best
@cliffordchance.com

Helen Carty
Partner

E: helen.carty
@cliffordchance.com

Carlos Conceicao
Partner

E: carlos.conceicao
@cliffordchance.com

Dorian Drew
Partner

E: dorian.drew
@cliffordchance.com

Jeremy Kosky
Partner

E: jeremy.kosky
@cliffordchance.com

Rae Lindsay
Partner

E: rae.lindsay
@cliffordchance.com

Kelwin Nicholls
Partner

E: kelwin.nicholls
@cliffordchance.com

Martin Saunders
Partner

E: martin.saunders
@cliffordchance.com

Judith Seddon
Partner

E: judith.seddon
@cliffordchance.com

Luke Tolaini
Partner

E: luke.tolaini
@cliffordchance.com

Editors

Chris Stott
Lawyer

E: chris.stott
@cliffordchance.com

Oliver Pegden
Lawyer

E: oliver.pegden
@cliffordchance.com

This publication does not necessarily deal with every important topic or cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice.

www.cliffordchance.com

Clifford Chance, 10 Upper Bank Street, London, E14 5JJ

© Clifford Chance 2013

Clifford Chance LLP is a limited liability partnership registered in England and Wales under number OC323571

Registered office: 10 Upper Bank Street, London, E14 5JJ

We use the word 'partner' to refer to a member of Clifford Chance LLP, or an employee or consultant with equivalent standing and qualifications

If you do not wish to receive further information from Clifford Chance about events or legal developments which we believe may be of interest to you, please either send an email to nomorecontact@cliffordchance.com or by post at Clifford Chance LLP, 10 Upper Bank Street, Canary Wharf, London E14 5JJ

Abu Dhabi ■ Amsterdam ■ Bangkok ■ Barcelona ■ Beijing ■ Brussels ■ Bucharest ■ Casablanca ■ Doha ■ Dubai ■ Düsseldorf ■ Frankfurt ■ Hong Kong ■ Istanbul ■ Kyiv ■ London ■ Luxembourg ■ Madrid ■ Milan ■ Moscow ■ Munich ■ New York ■ Paris ■ Perth ■ Prague ■ Riyadh* ■ Rome ■ São Paulo ■ Seoul ■ Shanghai ■ Singapore ■ Sydney ■ Tokyo ■ Warsaw ■ Washington, D.C.

*Clifford Chance has a co-operation agreement with Al-Jadaan & Partners Law Firm in Riyadh.