

# This week at the UK regulators

## Thirty second guide: The week in overview

Enforcement action taken by the FCA this week has been dominated by joint action with the PRA against multiple individuals and firms for misconduct in relation to various insurance schemes. Fines totalling £15.5m and prohibitions have been imposed, including the FCA's first fine on an authorised person for undertaking regulated activity.

Away from enforcement, the main development has been the publication of a policy statement setting out the final rules for the new individual accountability regimes. The FCA and PRA have also issued a joint policy statement setting out rules applicable to credit unions. The FCA has also published policy statement setting out Handbook changes as a result of the UCITS V Directive. Finally, an FCA consultation paper on peer to peer agreements has been issued, together with various publications revealing numbers of attestations and skilled person reports commissioned.

## FCA and PRA take action against multiple individuals and firms for insurance failures

The FCA and PRA have (on 1 February), following a joint investigation, published various Final Notices in respect of five individuals Mr Shay Reches, Mr Colin McIntosh, Mr Wayne Redgrave, Mr Robert Bygrave and Ms Andrea Sadler and three firms (Millburn Insurance Company Limited ("Millburn"), Coverall Worldwide Limited and Bar Professions Limited). The regulations found that these firms' and individuals' misconduct contributed to the failure of several insurance schemes as well as to three insurers going into administration. This resulted in substantial claims, totalling £12.7m as at the end of 2015, being paid by the Financial Services Compensation Scheme.

The fines imposed on the five individuals and two of the firms total £15.5m. Four of the individuals have been made subject to prohibitions for integrity and competence failings.

The fine of £1,050,000 on one of the individuals, Shay Reches, an unapproved person, is noteworthy in that it is the first time that the FCA has fined a person for undertaking regulated activities without approval. In an unusual addition to the fine and prohibition, Mr Reches is required to pay £13,130,000 to the three insurers that have been declared in default by the FSCS. If he fails to do so, the outstanding amount will be payable to the FCA as an additional fine.

The PRA also published Final Notices against Mr McIntosh and Millburn, imposing fines of £25,173 and £2,863,066 respectively, and banning him from holding any controlled functions at any PRA authorised firm. As Millburn is

currently in administration, the PRA will not impose the financial penalty against it if to do so would leave policyholder claims unpaid.

<http://www.fca.org.uk/your-fca/documents/final-notices/2016/millburn-insurance-company-limited>

<http://www.bankofengland.co.uk/pr/Documents/supervision/enforcementnotices/en010216.pdf>

<http://www.fca.org.uk/your-fca/documents/final-notices/2016/coverall-worldwide-ltd>

<http://www.fca.org.uk/your-fca/documents/final-notices/2016/bar-professions-limited>

<http://www.fca.org.uk/your-fca/documents/final-notices/2016/shay-jacob-reches>

<http://www.fca.org.uk/your-fca/documents/final-notices/2016/colin-j-mcintosh>

<http://www.bankofengland.co.uk/pr/Documents/supervision/enforcementnotices/en010216a.pdf>

<http://www.fca.org.uk/your-fca/documents/final-notices/2016/wayne-anthony-redgrave>

<http://www.fca.org.uk/your-fca/documents/final-notices/2016/robert-john-bygrave>

<http://www.fca.org.uk/your-fca/documents/final-notices/2016/andrea-christine-sadler>

## FCA action against asset manager to return to Upper Tribunal

The FCA has (on 5 February) published a Further Decision Notice to Mr Tariq Carrimjee prohibiting him from the CF10

(compliance oversight) and CF11 (money laundering) significant influence functions. Mr Carrimjee has now referred this matter to the Upper Tribunal (Tax and Chancery Chamber) for further consideration. This follows a Decision Notice of March 2013, which itself was referred to the Upper Tribunal and whose findings were subsequently remitted to the FCA to reconsider the issue of a potential prohibition.

<http://www.fca.org.uk/your-fca/documents/decision-notice/tariq-carrimjee>

### Keydata: Upper Tribunal refuses FCA's split trial application

The Upper Tribunal has (on 8 February) published a decision dated 1 February giving reasons for refusing an application made by the FCA for a "split trial" of the conjoined references of Mr Stewart Ford, Mr Mark Owen and Mr Peter Johnson arising out of the failure of Keydata Investment Services Limited ("Keydata"). Keydata was involved with certain investment products underpinned by bonds issued by two special purpose vehicles incorporated in Luxembourg, SLS Capital SA and Lifemark SA ("Lifemark"). The Luxembourg regulator (the CSSF) closed Lifemark to new business in mid-2009, and it was put into liquidation on 11 May 2012. Keydata ceased trading in June 2009 and went into administration. The Decision Notices, which are now the subject of these references, record the findings of the FCA that each of the applicants had failed to meet minimum integrity and competence standards, by being in breach of Statements of Principle 1 (integrity) and 4 (relations with regulators). Each applicant was made the subject of a prohibition order and a financial penalty was imposed, on Mr Ford of £75 million, on Mr Owen £4 million and on Mr Johnson £200,000.

The FCA sought a split trial the effect of which, the Judge held, was to stay the issue of the appropriate sanction to be determined by the Tribunal (if any) until after the conclusion of parallel Commercial Court proceedings brought by assignees of Mr. Ford and by Mr. Owen against the Authority for among other things misfeasance in public office. Judge Roger Berner refused the application on the grounds that there was no overlap between the two sets of proceedings such as would justify a stay of any element of the Tribunal proceedings. In so doing the Judge made the following general observation: *"I do not accept that there is any discernible principle whereby proceedings in this Tribunal might as a general rule be dealt with by means of a split trial, at least in which one element of the proceedings is stayed pending determination of other proceedings."*

<http://www.tribunals.gov.uk/financeandtax/Documents/decis>

[ions/ford-owen-johnson-v-fca.pdf](http://www.fca.org.uk/your-fca/documents/decisions/ford-owen-johnson-v-fca.pdf)

### FCA voices concerns on client take-on for contract for difference products

Following a review in ten firms offering CFD products of procedures for taking on new clients, the FCA has written a Dear CEO letter identifying areas of concern. These include failures to assess appropriateness of CFDs for clients, insufficient AML systems and controls and incorrect classification of clients.

<http://www.fca.org.uk/your-fca/documents/dear-ceo-letters/dear-ceo-letter-cfd>

### FCA publishes data on attestations and skilled persons reports

The FCA has (on 3 February) published a quarterly update setting out data on a range of areas, including an update on attestations and skilled person reports and an update on its work regarding financial promotions. It reveals that in Q2 2015/2016, the FCA requested 15 attestations (ten of which were in the wholesale and investment management sector), and in Q2 2015, 13 skilled person reports were commissioned (of which two were commissioned in each of the investment management, banks (including building societies) and insurance company sectors).

The FCA has also (on 4 February) published its quarterly KPIs as at December 2015 showing authorisations, variation of permission, payment services and e-money, and waivers and data showing that four skilled persons reports were commissioned in Q3 2015/2016.

<http://www.fca.org.uk/your-fca/documents/data-bulletin/data-bulletin-issue-5>

<http://www.fca.org.uk/your-fca/documents/fca-q3-15-16-number-of-skilled-person-reports-commissioned>

### Tracey McDermott addresses the City on "a critical period for the UK's financial sector"

In a speech delivered on 4 February, Tracey McDermott, Acting Chief Executive of the FCA, pointed to 2016 as a critical period and a period of great change for consumers, financiers and the FCA. She stressed that the FCA's regulatory priorities and, in particular, the importance it places on incentives, accountability and culture has not, and will not, change, but it has reflected on what it and others were doing and has reshaped and refocused its work to make it more effective. She discussed in particular

the FCA's wholesale strategy, as well as the implementation of MiFID II.

<http://www.fca.org.uk/news/independence-confidence-fairness>

### FCA publishes Policy development update

The FCA has published its Policy Development Update for February 2016 (issue 30), listing publications issued and forthcoming publications with expected timetables.

<http://www.fca.org.uk/your-fca/documents/handbook/policy-development-update-issue-30>

### FCA publishes response to European Commission identifying problems with

### the EU regulatory framework for financial services

The FCA has (on 5 February) published its response to the European Commission's call for evidence on the EU regulatory framework for financial services. The response includes specific examples within the categories identified by the Commission: rules affecting the ability of the economy to finance and grow itself; unnecessary regulatory burdens; interactions of individual rules, inconsistencies and gaps; and risks giving rise to possible other unintended consequences.

<http://www.fca.org.uk/your-fca/documents/eu-regulatory-framework-call-for-evidence>

### FCA warnings

Name of firm	Date of warning	Details
Malcolm Consultancy Ltd	5 February 2016	Not authorised <a href="http://www.fca.org.uk/news/warnings/malcolm-consultancy-ltd">http://www.fca.org.uk/news/warnings/malcolm-consultancy-ltd</a>
Fort Global Fund Managers	5 February 2016	Clone firm <a href="http://www.fca.org.uk/news/warnings/fort-global-fund-managers-clone">http://www.fca.org.uk/news/warnings/fort-global-fund-managers-clone</a>
Millennium Capital Partners	4 February 2016	Clone firm <a href="http://www.fca.org.uk/news/warnings/millennium-capital-partners-clone">http://www.fca.org.uk/news/warnings/millennium-capital-partners-clone</a>
Gerard & Alterman	3 February 2016	Not authorised <a href="http://www.fca.org.uk/news/warnings/gerard-and-alterman-clone">http://www.fca.org.uk/news/warnings/gerard-and-alterman-clone</a>
Paice Ashton and Lord	2 February 2016	Not authorised <a href="http://www.fca.org.uk/news/warnings/paice-ashton-and-lord-cc">http://www.fca.org.uk/news/warnings/paice-ashton-and-lord-cc</a>
I Text Loans	2 February 2016	Not authorised

		<a href="http://www.fca.org.uk/news/warnings/i-text-loans-cc">http://www.fca.org.uk/news/warnings/i-text-loans-cc</a>
C-7 Limited	2 February 2016	Not authorised <a href="http://www.fca.org.uk/news/warnings/c-7-limited">http://www.fca.org.uk/news/warnings/c-7-limited</a>
Pro Trade FX	2 February 2016	Not authorised <a href="http://www.fca.org.uk/news/warnings/pro-trade-fx">http://www.fca.org.uk/news/warnings/pro-trade-fx</a>
I Need Loans	2 February 2016	Not authorised <a href="http://www.fca.org.uk/news/warnings/i-need-loans-cc">http://www.fca.org.uk/news/warnings/i-need-loans-cc</a>
Very Pro Loans	2 February 2016	Clone firm <a href="http://www.fca.org.uk/news/warnings/very-pro-loans-clone-cc">http://www.fca.org.uk/news/warnings/very-pro-loans-clone-cc</a>
Payday Loans 12 months 3	2 February 2016	Not authorised <a href="http://www.fca.org.uk/news/warnings/payday-loans-12-months-3-cc">http://www.fca.org.uk/news/warnings/payday-loans-12-months-3-cc</a>

## Policy developments

FCA		PRA	
Proposed developments			
		Deadline for responses	
<b>Consultation papers</b>	The FCA has (on 2 February) published a consultation paper (CP16/5) to consult on changes it is planning to make to its rules and guidance on disclosure and advice relating to peer-to-peer (P2P) agreements. This is in advance of the April 2016 introduction by the Government of the Innovative Finance ISA which will allow for P2P agreements to be included within an ISA tax	15 February 2016	

	<p>wrapper. There is also intention to make advising on P2P agreements a regulated activity.</p> <p><a href="http://www.fca.org.uk/your-fca/documents/consultation-papers/cp16-5-handbook-changes-to-reflect-the-introduction-of-the-innovative-finance-isa-and-the-regulated-activity-of-advising-on-peer-to-peer-agreements-">http://www.fca.org.uk/your-fca/documents/consultation-papers/cp16-5-handbook-changes-to-reflect-the-introduction-of-the-innovative-finance-isa-and-the-regulated-activity-of-advising-on-peer-to-peer-agreements-</a></p>			
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Finalised Policy and guidance				
		Implementation/effective date		
<b>Policy statements</b>	<p>The FCA and PRA have (on 1 February) published a joint policy statement (FCA PS16/1 and PRA PS4/16 providing feedback on responses to a consultation paper (FCA CP15/21 and PRA 22/15) published last year in which the FCA and PRA consulted jointly to reform rules of credit unions.</p> <p>The policy statement also sets out PRA final rules and a supervisory statement intended to be read in conjunction with the rule instrument, and FCA final rules and guidance, as well as providing changes to the Credit Unions Sourcebook (CREDS) as a result of the FCA December 2014 consultation on forms, transitional and consequential aspects of the new accountability regime (CP14/31).</p> <p><a href="http://www.fca.org.uk/your-fca/documents/policy-statements/ps16-1">http://www.fca.org.uk/your-fca/documents/policy-statements/ps16-1</a></p>	<p>The changes following PRA and FCA CP22/15 and CP15/21 will come into force on 3 February 2016 with the exception of PRA rules on whistleblowing (Credit Unions 12), which come into force 7 September 2016 - see Credit Unions 18 for transitional rules for the period 7 March - 6 September 2016. The changes following FCA CP14/31 will enter into force on 7 March 2016 (in line with the other provisions related to the accountability regime).</p>		
	<p>The FCA has (on 2 February)</p>	<p>18 March 2015</p>		

	<p>published a policy statement (PS16/2) setting out the final Handbook changes implementing the requirements of the UCITS V Directive, and giving the FCA's response to feedback received during the consultation period for Part I of CP 15/27. The policy statement also includes the final rules for managers of non-UCITS retail schemes (NURS) and final guidance for depositaries of alternative investment funds (AIFs) (consulted on in CP 15/8).</p> <p><a href="http://www.fca.org.uk/your-fca/documents/policy-statements/ps16-02">http://www.fca.org.uk/your-fca/documents/policy-statements/ps16-02</a></p>			
	<p>The FCA has (on 4 February) published a policy statement (PS16/3) in which it sets out the final rules for the new accountability framework – extending the certification regime to wholesale market activities (consulted on in CP 15/22 of July 2015) and interim rules on referencing. The statement also contains initial feedback on CP15/31 of October 2015 (regulatory references).</p> <p><a href="http://www.fca.org.uk/your-fca/documents/policy-statements/ps16-03">http://www.fca.org.uk/your-fca/documents/policy-statements/ps16-03</a></p>	<p>The Senior Managers and Certification Regime comes into force on 7 March 2016</p>		
<b>Supervisory statements</b>				<p>The PRA has published (on 1 February) a supervisory statement (SS2/16) setting out its expectations of credit unions with regard to the Credit Union rules. It applies to all UK credit unions as defined in the Credit Union Rulebook Part and is intended to be read together with the rules contained in that Part.</p> <p>Areas covered include: capital; liquidity; additional activities;</p>

				<p>maximum deposit levels; fixed-rate shares and deposits; lending; investments; and governance and organisation.</p> <p><a href="http://www.bankofengland.co.uk/pru/Documents/publications/ss/2016/ss216.pdf">http://www.bankofengland.co.uk/pru/Documents/publications/ss/2016/ss216.pdf</a></p>
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