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Briefing note | 5 September 2016

This week at the UK regulators

Thirty second guide: The week in overview

In a relatively quiet week, the main enforcement development was the imposition of a financial penalty on a retail adviser for misleading the FCA about her qualification status. The adviser was found to have fabricated the required statements of professional standing and to have made numerous misleading statements to the FCA regarding her qualifications.

Further afield, the Hong Kong Market Misconduct Tribunal found a short seller guilty of market misconduct in a case marking the Hong Kong Securities and Futures Commission's first direct action against short sellers. The Tribunal will decide on the appropriate action at a later stage. Meanwhile, the total amount paid to whistleblowers under the programme maintained by the US Securities and Exchange Commission passed USD 100 million with an award of USD 22 million paid to an individual for providing information assisting an investigation.

FCA fines retail investment adviser for lying to the FCA about her qualification status

The FCA has (on 1 September) issued a final notice imposing a financial penalty of £109,400 on Elizabeth Anne Parry and a prohibition from performing any regulated function for lying to the FCA about her qualification status. Under a set of rules imposed by the FCA on the retail investment market from the beginning of 2013, the minimum level of qualification for all retail advisers was raised so that they were required to hold a Statement of Professional Standing (**SPS**). An SPS can be provided by an accredited body and signifies that the adviser holds the appropriate qualification, has satisfied the appropriate continuing professional development requirement and has met the requisite ethical standard.

The FCA found that Miss Parry had fabricated two SPSs in order to give the impression to the FCA that she was appropriately qualified. The FCA also found that Miss Parry had made numerous misleading statements to the FCA regarding her qualifications. The FCA decided that this amounted to a failure to act with integrity in contravention of Statement of Principle 1 of the Statements of Principle for Approved Persons. Miss Parry would have received a financial penalty of £157,405 plus interest had she not produced verifiable evidence of serious financial hardship.

https://www.fca.org.uk/sites/default/files/elizabeth-anne-parry.pdf

FCA warnings

Name of firm	Date of warning	Details
Credit Poor	31 August 2016	Clone firm https://www.fca.org.uk/news/warnings/credit-poor-clone

Policy developments

	FCA			PRA
Finalised policy and guidance				
		Implementation/effective date		
Consultation papers	The FCA has (on 2 September) published its quarterly Consultation Paper No. 14 (CP16/21) which invites feedback on the FCA's proposals to amend its Handbook. The FCA is proposing to: (i) make changes to the APR assumptions for consumer credit agreements; (ii) update the equity release rules in MCOB to facilitate the availability of lifetime mortgages where the consumer can choose to switch to interest roll-up, and to make consequential changes to SUP for the reporting of Product Sales Data; (iii) make changes to Short Form A; (iv) make changes to IFPRU 11 to increase the clarity of requirements and ensure consistency with the Recovery and Resolution Directive; and (v) make changes to include deferred shares issued by mutual society insurers and friendly societies with the 'mutual society shares' definition. https://www.fca.org.uk/sites/default/files/cp16-21.pdf	1 April 2017		

Further Afield

Hong Kong Market Misconduct Tribunal finds short seller guilty of market misconduct

The Market Misconduct Tribunal (**MMT**) has (on 26 August) found short seller Andrew Left culpable of market misconduct in a case marking the Securities and Futures Commission's (**SFC**) first direct action against short sellers.

The MMT found that Mr Left had made false or misleading allegations in June 2012 concerning Evergrande Real Estate Group Limited, the Chinese property developer, that were likely to frighten ordinary investors. The report stated that Evergrande was insolvent and had consistently presented fraudulent information to the investing public. An SFC investigation had found that Mr Left had started selling Evergrande shares two weeks before the article was published and then began buying them back on the day of publication, making him a net profit of HKD1.6 million.

Market commentators had voiced fears that the ruling could harm freedom of speech in Hong Kong. Investors though, concerned about unsourced and misleading information being spread in the market, have generally welcomed the finding.

The MMT will decide on an appropriate sanction at a later stage but Mr Left faces the prospect of a ban from trading Hong Kong shares for up to five years and having to pay back the profit he made from his trades in Evergrande. For further details, please see our Clifford Chance briefing.

https://www.cliffordchance.com/briefings/2016/09/short_circuit_shortsellerguiltyofhongkon.html

SEC awards $22 million to whistleblower who helped uncover fraud

The U.S. Securities and Exchange Commission (**SEC**) has (on 30 August) announced the award of more than USD22 million to a whistleblower whose tip and subsequent assistance helped the SEC halt a fraud at the company where the whistleblower worked. This award is the second largest total the SEC has awarded to a whistleblower, the largest being USD30 million awarded in 2014. The SEC's whistleblower program has now surpassed USD100 million in total money awarded.

https://www.sec.gov/news/pressrelease/2016-172.html

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