

This week at the UK regulators

Thirty second guide: The week in overview

The main enforcement development last week was the decision by the FCA to take action against a former CEO based on findings in relation to misselling and conflicts of interests when selling investment products. The individual concerned has referred the matter to the Upper Tribunal.

In policy developments, the FCA and PRA have proposed the amendment of the loan to income ratio flow limit from quarterly to a four-quarterly limit and the FCA has published a consultation paper in relation to proposed amendments to Disclosure and Transparency Rules and a call for inputs in relation to high cost credit.

Further afield, the Hong Kong Securities Exchange Commission commenced its first proceedings since new disclosure obligations came into force under the Securities and Future Ordinance. The Dutch financial services regulator published its supervisory outlook, containing a number of themes in relation to integrity and anti-money laundering compliance resonating with recent developments and approaches in the UK.

FCA decides to fine and ban individual

On 1 December, the FCA issued a Decision Notice in respect of Mr Alistair Burns and TailorMade Independent Limited (in liquidation) ("TMI"). It has decided to impose a financial penalty of £233,600, to withdraw approvals granted to Mr Burns to act as a director and Chief Executive and to make a prohibition order against him. No separate sanction is proposed against TMI. The proposed action is based on findings that Mr Burns breached Principles 6, 7 and 9 of the Statements of Principle for Approved Persons and various rules contained in the Conduct of Business Sourcebook relating to the circumstances in which particular investment products were recommended and sold to customers between January 2010 and January 2013. Mr Burns has referred the matter to the Upper Tribunal.

<https://www.fca.org.uk/publication/decision-notices/alistair-rae-burns.pdf>

Final Notices

- On 28 November 2016, the FCA published a final notice referring to breaches of APER 2 and FIT by Tariq Carrimjee related to lack of fitness and propriety in the investment adviser sector. The FCA imposed a

fine of £89,004 and a prohibition. The Final Notice follows and responds to a recent judgment from the Upper Tribunal.

<https://www.fca.org.uk/publication/final-notices/tariq-carrimjee-2016.pdf>

- On 30 November 2016, The FCA published four final notices for breaches of PRIN 11 related to failing to be open and cooperative in the credit consumer sector. Cancellations were imposed on Future Voice and Data Limited, Jaypee Contracts Limited, Clarks of Garforth Limited and TOCC Limited.

<https://www.fca.org.uk/publication/final-notices/future-voice-data-limited.pdf>

<https://www.fca.org.uk/publication/final-notices/jaypee-contracts-limited.pdf>

<https://www.fca.org.uk/publication/final-notices/clarks-garforth-limited.pdf>

<https://www.fca.org.uk/publication/final-notices/tocc-limited.pdf>

FCA warnings

| Name of firm | Date of warning | Details |
|---------------------------------------|------------------|---|
| Kojima Ventures | 2 December 2016 | Not authorised https://www.fca.org.uk/news/warnings/kojima-ventures |
| Miyake Gould Mergers and Acquisitions | 2 December 2016 | Not authorised https://www.fca.org.uk/news/warnings/miyake-gould-mergers-and-acquisitions |
| Templegate Investment Ltd | 30 November 2016 | Not authorised https://www.fca.org.uk/news/warnings/templegate-investment-ltd |
| Rhodium Forex / WR Trade | 30 November 2016 | Not authorised https://www.fca.org.uk/news/warnings/rhodium-forex-wr-trade |
| Algo Capitals | 30 November 2016 | Clone firm https://www.fca.org.uk/news/warnings/algo-capitals-clone-fca-authorized-firm |
| Zimmermann Global | 29 November 2016 | Clone firm https://www.fca.org.uk/news/warnings/zimmermann-global-clone-eea-authorized-firm |
| SSW Market Making GmbH | 28 November 2016 | Not authorised https://www.fca.org.uk/news/warnings/ssw-market-making-gmbh |
| Pan Associates | 28 November 2016 | Clone firm https://www.fca.org.uk/news/warnings/pan-associates-clone |
| DVP Consulting GmbH | 28 November 2016 | Clone firm https://www.fca.org.uk/news/warnings/dvp-consulting-gmbh-clone |

Policy developments

| FCA | | PRA | | |
|----------------------------|---|--|--|--|
| Proposed developments | | | | |
| | | Deadline for responses | | |
| Consultation papers | <p>On 28 November 2016, the FCA published a consultation paper (CP 16/38) seeking views on the proposed amendments to the Disclosure and Transparency Rules section of the handbook (DTR 2.5) in order to comply with the ESMA guidelines issued by the European Securities and Markets Authority ("ESMA") on delay of disclosure of inside information.</p> <p>The FCA is seeking comments on the propose changes to DTR 2.5, not on the content on the ESMA guidelines, or the FCA's decision to comply with them.</p> <p>https://www.fca.org.uk/publication/consultation/cp16-38.pdf</p> | 6 January 2017 | | |
| Consultation papers | <p>On 2 December 2016, the FCA published its quarterly consultation paper (CP 16/39) on miscellaneous amendments to its handbook.</p> <p>https://www.fca.org.uk/publication/consultation/cp16-39.pdf</p> | 6 weeks to 2 months, depending on the chapter. | | |
| Call for inputs | <p>On 29 November 2016, the FCA published a call for inputs on high-cost credit, including overdrafts, and a review of the high-cost short-term credit cap.</p> <p>The FCA committed in PS14/16 to looking at the high-cost short-term credit cap in the first half of 2017,</p> | 15 February 2017 | | |

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| | <p>but has widened this to consider high-cost products as a whole, and whether they cause detriment and, if so, to which consumers.</p> <p>https://www.fca.org.uk/publication/call-for-input/call-input-high-cost-short-term-credit.pdf</p> | | | |
| Guidance consultation | <p>On 30 November 2016, the FCA published a guidance consultation paper (GC 16/8) setting out its proposed amendments and clarifications to general guidance issued in October 2014 in relation to the Financial Policy Committee's recommendations on loan to income (LTI) ratios.</p> <p>The FCA found that the current fixed quarterly LTI flow limit could make it harder for firms to manage their business pipeline. The FCA has proposed a four-quarter rolling limit.</p> <p>https://www.fca.org.uk/publication/guidance-consultation/gc16-08.pdf</p> | 10 January 2017 | 10 January 2017 | <p>On 30 November 2016, the PRA published a consultation paper (CP 44/16) setting out its proposed amendments to the Housing part of the PRA Rulebook. The consultation paper proposes to amend the current quarterly LTI flow limit into a four-quarterly rolling limit.</p> <p>http://www.bankofengland.co.uk/p/ra/Documents/publications/cp/2016/cp4416.pdf</p> |

| Finalised Policy and guidance | | | | |
|-------------------------------|--|-------------------------------|----------------|--|
| | | Implementation/effective date | | |
| Policy statements | | | 1 January 2017 | <p>On 1 December 2016, the PRA published a policy statement (PS 34/16) on supervision building societies' treasury and lending activities PS34/16.</p> <p>The policy statement provides feedback on responses to consultation paper 12/16, and the supervisory statement 20/15. The PRA received 22 responses to the proposal in the consultation paper, including from 17 building societies. In order to address</p> |

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| | | | | <p>raised by respondents, and following its own review, the PRA has made a number of changes to the supervisory statement.</p> <p>http://www.bankofengland.co.uk/p/ra/Documents/publications/ps/2016/ps3416.pdf</p> |
|--|--|--|--|---|

Further Afield

Hong Kong regulator takes first action under new disclosure rules

The Securities and Futures Commission ("SFC") commenced proceedings in the Market Misconduct Tribunal ("MMT") against AcrossAsia Limited for failing to disclose highly sensitive information as soon as reasonably practicable. The SFC has also commenced proceedings in the MMT against the Chairman and Chief Executive Officer of AcrossAsia for reckless/negligent conduct causing the alleged breach by the company of the corporate disclosure regime.

These are the first proceedings to be brought by the SFC in the MMT regarding the new disclosure obligations imposed on listed companies under the Securities and Future Ordinance (effective on 1 January 2013).

Dutch regulator to focus on integrity and anti-money laundering compliance in the year ahead

The Dutch financial services regulator, the DNB, has published its supervisory outlook for 2017. In statements resonant of the focus of the UK regulators on individual accountability and the proposed changes to UK anti-money laundering and counter terrorism financing regimes currently progressing through Parliament (see our Clifford Chance briefing), it has identified aggressive tax planning, and the role of banks as facilitators, and maintaining standards of integrity in the banking industry as priorities for the year ahead.

http://www.dnb.nl/binaries/Toezicht%20Vooruitblik%202017_tcm46-349591.pdf?2016112915 (available in Dutch only)

<https://onlineservices.cliffordchance.com/online/freeDownload.action?key=OBWlbfqNhLNomwBl%2B33QzdFhRQAhp>

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