

This week at the UK regulators

Thirty second guide: The week in overview

Last week did not see any particularly significant enforcement developments emerging from the FCA, but did witness several important developments relating to the FCA's use of its consumer credit regulatory powers, acquired in 2014. It announced a voluntary redress scheme with a major bank and, in a separate case, the commencement of proceedings in its first prosecution relating to unlicensed consumer credit lending.

In other developments, the FCA's Director of Enforcement used a speech to reiterate that numbers of investigations may rise. In policy developments, the FCA and PRA launched a joint consultation on the management fee levy relating to the Financial Services Compensation Scheme and the FCA began a consultation exercise on aspects of the operation of the client assets regime, with particular reference to the special administration regime. It also issued finalised guidance on default notices under guarantor loans, whilst the PRA issued guidance in relation to various aspects of depositor protection and dormant accounts.

Away from the financial regulators, last week was an important week for the development of the law relating to corporate criminal liability in the UK. A government paper on the potential reform of the law in this area released the previous week was closely followed by the approval of the third, and most significant, deferred prosecution agreement to be agreed between the Serious Fraud Office and a cooperating corporate organisation.

Enforcement and other notices

The FCA has (on 20 January) published a final notice cancelling the permission of Notion Capital Managers LLP following failures to respond adequately to requests for required returns to be submitted.

<https://www.fca.org.uk/publication/final-notices/notion-capital-managers-llp.pdf>

The FCA has (on 17 January) published a first supervisory notice (dated 9 December 2016) in respect of Bank House Investment Management Limited imposing various restrictions, including a requirement to cease to carry on any regulated activities or other business activities in connection with regulated activities. The action is stated to have been based on concerns about the suitability of pensions advice provided by the firm, which gave rise to the imposition of a voluntary requirement preventing it from carrying on any activities relating to pension switching and/or pension transfers to self-invested personal pensions. The FCA has stated that it has now issued this notice imposing restrictions following breaches of the voluntary requirement.

<https://www.fca.org.uk/publication/supervisory-notices/bank-house-investment-management-limited.pdf>

FCA agrees voluntary redress scheme for historical debt collection practices

The FCA has (on 20 January) announced that HSBC Bank PLC has voluntarily set up a redress scheme for customers of two firms which are now subsidiaries of it who may have suffered detriment in connection with debt collection practices between 2003 and 2009. The FCA has stated that it estimates that approximately £4 million will be paid to customers of HFC Bank Limited ("HFC") and John Lewis Financial Services Limited in respect of charges levied on customers in arrears. This follows an announcement in December 2015 that it was reconsidering its previous decision not to investigate the matter in respect of HFC. The Office of Fair Trading previously imposed a requirement on HFC in respect of the same conduct in 2010 (when it had responsibility for consumer credit regulation in the financial services sector).

<https://www.fca.org.uk/news/press-releases/hsbc-voluntarily-agrees-provide-approximately-4m-redress-historical-debt>

<https://www.fca.org.uk/publication/corporate/response-complaints-commissioner-report-fca00050.pdf>

http://webarchive.nationalarchives.gov.uk/20140402142426/http://oft.gov.uk/shared_oft/press_release_attachments/HFC-requirements.pdf

FCA commences first prosecution for unlicensed consumer credit lending

On 17 January, Mr Dharam Prakash Gopee appeared at Westminster Magistrates' Court charged with offences under the Consumer Credit Act 1974 and the Financial Services and Markets Act 2000. The FCA has stated that the charges arise from an investigation undertaken by it in connection with companies controlled by him, including Reddy Corporation Limited, Speedy Bridging Finance Limited and Barons Finance Limited. The case has been sent to Southwark Crown Court and the next hearing is provisionally listed for 14 February 2017.

The case is the first in which the FCA has commenced a prosecution in relation to unlicensed consumer credit lending since taking over responsibility for the regulation of consumer credit activities in the financial services sector from the Office of Fair Trading on 1 April 2014.

<https://www.fca.org.uk/news/press-releases/fca-takes-first-criminal-action-against-individual-acting-unlicensed-consumer>

FCA Director of Enforcement sets out plans for more investigations

In a speech delivered on 19 January, the FCA's Director of Enforcement, Mark Steward, has reiterated and refined indications he and others have sent previously about the FCA's approach to enforcement. In particular, he has repeated suggestions that the FCA may seek to commence

more investigations, although not all of these will necessarily lead to enforcement proceedings.

Similar suggestions, together with indications that the regulator is considering changing the language describing the commencement of action from "referral to enforcement" to "referral for investigation" and reviewing the use of private warnings, have been made in, for example, the FCA's "Our future Mission" consultation, launched in October last year. The deadline for responding to that consultation paper, which also deals with how the FCA may approach a range of other issues across its regulatory remit, is this Friday, 26 January.

<https://www.fca.org.uk/news/speeches/practical-implications-us-law-eu-practice>

<https://www.fca.org.uk/publication/corporate/our-future-mission.pdf>

FCA imposes temporary prohibition on short selling

On 20 January, the FCA imposed a temporary prohibition on short selling in financial instruments related to Banco Comercial Português, S.A. (ISIN: PTBCP0AM0015) following a decision taken by another EU competent authority. The measure was in place until the end of trading on 20 January 2017.

<https://www.fca.org.uk/news/news-stories/temporary-prohibition-short-selling-banco-comercial-portugues-sa>

FCA warnings

Name of firm	Date of warning	Details
Ono Ventures	20 January 2017	Not authorised https://www.fca.org.uk/news/warnings/ono-ventures
Go 4 UK Loans	18 January 2017	Clone firm https://www.fca.org.uk/news/warnings/go-4-uk-loans-clone
Right Capital Partners Limited	17 January 2017	Not authorised https://www.fca.org.uk/news/warnings/right-capital-partners-

		limited
Loaningo	17 January 2017	Clone firm https://www.fca.org.uk/news/warnings/loaningo-clone-fca-authorized-firm
Peyton Private Bank	16 January 2017	Not authorised https://www.fca.org.uk/news/warnings/peyton-private-bank

Policy developments

FCA		PRA		
Proposed developments				
		Deadline for responses		
Consultation papers	The FCA (and PRA have (on 16 January) published a joint consultation paper (FCA CP 17/1 and PRA CP 1/17) on the management expenses levy limit for 2017/18 in relation to the Financial Services Compensation Scheme. https://www.fca.org.uk/publication/consultation/cp17-01.pdf	13 February 2017		
	The FCA has (on 23 January) issued a consultation paper (CP 17/2) seeking feedback on a number of aspects of the client assets regime, in particular the client money distribution rules under chapter 7A of the Client Assets Sourcebook and their interaction with the special administration regime. https://www.fca.org.uk/publication/consultation/cp17-02.pdf	23 February 2017 (Chapter 3) 24 April 2017 (all other proposal)		

Finalised Policy and guidance				
		Implementation/effective date		
Policy statements				<p>The PRA has (on 16 January) published a policy statement (PS 1/17) on Deposit Protection and the FSCS Levy Limit and an update to Supervisory Statement 28/15 on depositor and dormant account protection.</p> <p>http://www.bankofengland.co.uk/p/ra/Pages/publications/ps/2017/ps117.aspx</p> <p>http://www.bankofengland.co.uk/p/ra/Pages/publications/cp/2017/cp117.aspx</p>
Finalised guidance	<p>The FCA has (on 19 January) published finalised guidance (FG 17/1) on default notices under guarantor loans.</p> <p>https://www.fca.org.uk/publication/finalised-guidance/fg17-01.pdf</p>	19 January 2017		

Further Afield

UK Serious Fraud Office concludes most significant deferred prosecution agreement to date

On 17 January, a deferred prosecution agreement ("DPA") negotiated between the UK Serious Fraud Office ("SFO") and Rolls-Royce PLC (and a subsidiary operating in the energy sector) ("Rolls-Royce") was approved by the Court. The DPA, the third to be concluded in the UK, will require Rolls-Royce to pay a total of £497,252,645 by way of a financial penalty (plus the SFO's costs of almost £13 million) over a four year period and to maintain a compliance programme in place since 2013. It was based upon various conduct relating to payments to intermediaries in seven overseas jurisdictions between 1989 and 2013. For full details, see our Clifford Chance briefing.

The DPA follows closely behind another potentially important development in relation to corporate criminal liability in the UK, a call for evidence published by the UK government on 13 January. This development was reported in brief in last week's edition of This week at the UK regulators. For full details, see our Clifford Chance briefing.

<https://onlineservices.cliffordchance.com/online/freeDownload.action?key=OBWlbfGqNhlNomwBl%2B33QzdFhRQAhp8D%2BxrlGRel2crGqLnALtlyZe0HxEKsv81LGfEtuXo9KCPbp%0D%0A5mt12P8Wnx03DzsaBGwslB3EVF8XihbSpJa3xHNE7tFeHpEbaelf&attachmentsize=137295>

<https://onlineservices.cliffordchance.com/online/freeDownload.action?key=OBWlbfGqNhlNomwBl%2B33QzdFhRQAhp8D%2BxrlGRel2crGqLnALtlyZe0HxEKsv81LGfEtuXo9KCPbp%0D%0A5mt12P8Wnx03DzsaBGwslB3EVF8XihbSpJa3xHNE7tFeHpEbaelf&attachmentsize=158912>

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