

This week at the UK regulators

Thirty second guide: The week in overview

The main enforcement development last week was the conclusion of enforcement action against a major bank for anti-money laundering controls failings, resulting in the imposition of a fine of over £163 million.

Away from enforcement developments, the FCA and PRA also announced significant changes to enforcement processes, which will affect both future and ongoing cases. The PRA has indicated that it will continue to make changes to its enforcement processes during 2017.

FCA concludes action for anti-money laundering controls failings

The FCA has (on 31 January) imposed a financial penalty of £163,076,224 on Deutsche Bank AG ("Deutsche") for failings relating to its anti-money laundering ("AML") systems and controls between 1 January 2012 and 31 December 2015. The FCA has found that Deutsche breached Principle 3 (management and control) of the Principles for Businesses and rules set out in chapter 6 of the Senior Management Arrangements, Systems and Controls ("SYSC") section of its Handbook through various failings connected with customer due diligence, Know Your Customer obligations, risk rating methodologies and investment in and oversight of AML systems relating to cross-border trades.

The penalty imposed includes a disgorgement element of £9.1 million, which was the amount of commission earned from the trades with which the action was concerned. The remainder of the penalty includes a 30 per cent discount as Deutsche agreed to settle at an early stage of the FCA's investigation. The FCA's Final Notice and accompanying press release acknowledges that Deutsche was exceptionally cooperative with the FCA during its investigation and has committed significant resources to a large scale remediation programme.

<https://www.fca.org.uk/publication/final-notice/deutsche-bank-2017.pdf>

Enforcement Notices

The FCA has (on 1 and 2 February 2017) cancelled the Part 4A permissions of John Green, Jordanne Moy, Michael Fern, Manjeet Oberoi trading as Royston Motors, Lee Paul Fishwick and Mark Leaper. The FCA concluded that these

individuals are not fit and proper persons because they each failed to submit the required returns and were not open and cooperative with the FCA as did not respond adequately to repeated requests to submit these forms.

<https://www.fca.org.uk/publication/final-notice/john-green.pdf>

<https://www.fca.org.uk/publication/final-notice/jordanne-moy.pdf>

<https://www.fca.org.uk/publication/final-notice/michael-fern.pdf>

<https://www.fca.org.uk/publication/final-notice/royston-motors.pdf>

<https://www.fca.org.uk/publication/final-notice/lee-paul-fishwick.pdf>

<https://www.fca.org.uk/publication/final-notice/mark-leaper.pdf>

The FCA has (on 2 February 2017) cancelled the Part 4A permission of Michael Wilkinson trading as Michael Wilkinson Mortgages. The FCA found that Mr. Wilkinson was failing to satisfy the Threshold Conditions in that his financial resources are not adequate in relation to the regulated activities of a regulated home finance business and a general insurance mediation business, and he has provided inaccurate and misleading information to the FCA.

<https://www.fca.org.uk/publication/final-notice/michael-wilkinson.pdf>

The FCA has (on 2 February 2017) cancelled the Part 4A permission of David Stanley Mather. The FCA concluded that Mr Mather is not a fit and proper person as he failed to submit a Retail Mediation Activities Return for the period ended 31 March 2016, and did not respond adequately to

the repeated requests from the FCA.

The FCA has (on 3 February 2017) published a decision notice to cancel the Part 4A permission of Anthony Badaloo trading as Church Hill Finance. The FCA found that Mr Mather is not a fit and proper person as he repeatedly failed to comply fully, or at all, with reasonable requests by the Authority that he provide information and documents to the Authority in relation to his business records and his creditor position. In addition, the FCA considered that Mr Badaloo cannot be expected to act with probity based on several criminal convictions.

<https://www.fca.org.uk/publication/final-notice/david-stanley-mather.pdf>

FCA and PRA announce changes to enforcement processes

The FCA has (on 1 February) published a policy statement (PS 17/1) setting out significant changes to the processes by which enforcement cases are to be dealt with (including those currently underway). The paper follows a consultation exercise in 2016 and implements a number of recommendations made as part of the Enforcement Review undertaken by HM Treasury and the report of Andrew Green QC, published in December 2014 and November 2015 respectively. The principal changes are the introduction of a "focused resolution procedure" enabling subjects of investigations to settle some aspects of cases and dispute others (thereby preserving applicable discounts on any financial penalty which may be imposed) and the introduction of an expedited route to the Upper Tribunal (Tax and Chancery Chamber) dispensing with the need to first pursue a challenge before the Regulatory Decisions Committee.

The PRA has also announced that it continues to work to implement recommendations, including through producing of a short guide to PRA enforcement procedures, to include referral criteria, and reviewing of its approach to settlement.

For further details in relation to the changes, see our Clifford Chance briefing.

<https://www.fca.org.uk/publications/policy-statements/implementation-enforcement-review-and-green-report-ps17-1>

<https://www.fca.org.uk/your-fca/documents/consultation-papers/cp16-10>

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/389063/enforcement_review_response_final.pdf

<http://www.bankofengland.co.uk/pr/Documents/publication/s/reports/agreenreport.pdf>

<https://onlineservices.cliffordchance.com/online/freeDownload.action?key=OBWlbFgNhLNomwBl%2B33QzdFhRQAhp8D%2BxrlGRel2crGqLnALtlyZe2XBf7rHhhMsN4EbFdO5bEvp%0D%0A5mt12P8Wnx03DzsaBGwsIB3EVF8XihbSpJa3xHNE7tFeHpEbaelf&attachmentsize=139533>

FCA publishes number of skilled persons reports commissioned in Q3 2016/17

The FCA has (on 1 February 2017) published details of the number of skilled persons reports commissioned in Q3 2016/17. The report shows that a total of 15 reports were commissioned in this quarter.

<https://www.fca.org.uk/publication/data/skilled-persons-q3-16-17.pdf>

FCA publishes Supervision review report on acquiring clients from other firms

The FCA has (on 1 February 2017) published a supervision review report on its recent review of investment advisory firms' practice when acquiring clients from other firms. The report focuses on a targeted review of six advisory firms which had recently acquired clients through the purchase of another legal entity or through acquiring another firm's client bank. The FCA concluded that whilst it did see some good practices, none of the assessed were able to consistently show that clients' needs were suitably considered and, in particular, did not focus on how clients were impacted by the acquisition.

<https://www.fca.org.uk/publication/research/supervision-review-report-acquiring-clients-other-firms.pdf>

FCA warnings

Name of firm	Date of warning	Details
The Finance Solutions	2 February 2017	Not authorised https://www.fca.org.uk/news/warnings/finance-solutions
Ambrosia Capital	1 February 2017	Clone firm https://www.fca.org.uk/news/warnings/ambrosia-capital-clone
Hansford / Hanford and Associates	1 February 2017	Not authorised https://www.fca.org.uk/news/warnings/hansford-hanford-and-associates

Policy developments

FCA		PRA		
Proposed developments				
		Deadline for responses		
Consultation papers	FCA has (on 31 January 2017) published a consultation paper (CP 17/3) on proposed Handbook changes to reflect the new regulatory framework for Insurance Linked Securities. https://www.fca.org.uk/publication/consultation/cp17-03.pdf	14 March 2017		

Finalised Policy and guidance				
		Implementation/effective date		
Policy statements	<p>The FCA and the PRA have (on 1 February 2017) published a policy statement (PS 17/1) on the Implementation of the Enforcement Review and the Green Report in which they respond to comments received on their Consultation Paper on the same topic.</p> <p>See entry above for more details.</p> <p>https://www.fca.org.uk/publication/policy/ps17-01.pdf</p>	1 February 2017	Various dates (not yet finalised by prior to 1 January 2019)	<p>The PRA has (on 1 February) released a policy statement (PS 3/17) on reporting and residual matters relating to the implementation of ring-fencing, together with updated versions of supervisory statements 8/16 and 34/15 on Ring-fenced bodies and regulatory reporting respectively.</p> <p>http://www.bankofengland.co.uk/p/ra/Documents/publications/ps/2017/ps317.pdf</p> <p>http://www.bankofengland.co.uk/p/ra/Pages/publications/ss/2017/ss816update.aspx</p> <p>http://www.bankofengland.co.uk/p/ra/Pages/publications/ss/2017/ss3415update.aspx</p>

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