

This week at the UK regulators

Thirty second guide: The week in overview

The main enforcement developments last week were the imposition of a requirement by the FCA on a firm to pay up to £66 million to investors in connection with due diligence and communication failures and the announcement of its decision to ban the individual at the centre of some of the most high profile criminal proceedings to date in relation to benchmark manipulation.

In other important developments, the PRA outlined the proposed procedures of the new committee established to make enforcement decisions, whilst the FCA launched a market study in relation to wholesale insurance brokers and set out its future approach to consumers, releasing the first of a series of statements elaborating on its general statements about its "mission" released last year.

The Asset management firm to pay up to £66 million to investors

On 10 November, the FCA published a Final Notice imposing a public censure on Capita Financial Managers Limited ("CFM") and setting out details of arrangements under which up to £66 million will be paid to investors who suffered loss as a result of investing in the Guaranteed Low Risk Income Fund, Series 1 (or as it became later known, the Connaught Income Fund, Series 1) ("the Fund"), which went into liquidation in 2012. The FCA has made clear that it has not imposed a financial penalty as it is satisfied that had it done so, CFM would not have been able to make separate payments to investors.

The action was based upon findings by the FCA that CFM breached Principles 2 (due skill, care and diligence) and 7 (communications with clients) of the Principles for Businesses through shortcomings in due diligence arrangements and failures to ensure that communications were clear, fair and not misleading.

<https://www.fca.org.uk/news/press-releases/capita-financial-managers-pay-66-million-benefit-investors-connaught-income-fund-series-1>

FCA decides to ban Tom Hayes

On 8 November, FCA confirmed that it has decided to prohibit Mr Tom Hayes from performing any function in relation to any regulated activity in the financial services industry. The FCA considers that Mr Hayes is not a fit and proper person as a result of his conviction for conspiracy to defraud in relation to the manipulation of Yen LIBOR.

Mr Hayes has referred the FCA's decision to the Upper Tribunal. Therefore, the decision has not taken effect pending the determination by the Tribunal. The FCA has indicated that it has applied to have Mr Hayes' reference struck out and Mr Hayes has applied to prevent publication of the FCA's Decision Notice and to delay the hearing of the proceedings on the basis that he has referred his conviction to the Criminal Cases Review Commission (CCRC). In a decision dated 24 October, the Tribunal has decided to delay the proceedings (and has ordered that the Decision Notice should not be published) pending the CCRC's decision.

<https://www.fca.org.uk/news/press-releases/fca-decides-ban-tom-hayes>

https://assets.publishing.service.gov.uk/media/5a0325ac40f0b60b048399f8/Tom_A_W_Hayes_v_FCA.pdf

FCA publishes future approach to consumers

Building on the publication of details of its "mission" in October 2016, the FCA has (on 6 November) released details of its future approach to consumers. It has indicated that this is the first of a series of announcements on how it intends to approach particular areas of its remit. It has set out its key priorities of ensuring that high quality, good value products and services that meet consumers' needs are available, that consumers can buy the products and services they need and the way in which they are sold is clear, fair and not misleading and that the needs of vulnerable consumers are taken into account. It has

elaborated to set out a number of "core ideas" in relation to the respective responsibilities of firms and consumers, identifying and dealing with vulnerable customers, keeping pace with a changing environment (which includes a commitment to continued use of behavioural economics), having regard to access and tackling exclusion and delivering better outcomes for all consumers.

<https://www.fca.org.uk/publications/corporate-documents/our-mission>

<https://www.fca.org.uk/news/press-releases/fca-publishes-future-approach-consumers>

FCA launches market study on wholesale insurance brokers

On 8 November, the FCA published details of and the terms of reference for its wholesale insurance broker market study, which will examine how competition is working in the sector. In particular, the study will examine how brokers compete in practice and whether they use their bargaining power to get clients a good deal, what conflicts of interest exist, how they are managed and how they affect competition and client outcomes and how broker conduct impacts on competition in the sector. The FCA has invited responses by 19 January 2018.

<https://www.fca.org.uk/publications/market-studies/ms17-2-wholesale-insurance-broker-market-study>

<https://www.fca.org.uk/publication/market-studies/ms17-2-1.pdf>

Market Watch 54

On 8 November, the FCA published Market Watch 54, which comments on and sets out informal guidance in relation to the introduction of new requirements in relation to legal entity identifiers, access to European Securities and Markets Authority instrument reference data, transitional arrangements in relation to transaction reporting under MiFIR, reporting by trading venues of transactions executed through its systems by a UK branch of a third country firm, MiFID II and market data obligations and authorisations and variations of permissions for MiFID II.

<https://www.fca.org.uk/publication/newsletters/market-watch-54.pdf>

Other enforcement notices

The FCA has published final notices in separate cases imposing cancellations for failures to be open and cooperative:

- Mr Joseph Jones trading as Spand Motors
- Mr Anthony Badaloo trading as Church Hill Finance
- Mr Alistair Charles Proctor
- Eco-Insulation Limited
- Woodston Limited
- Motorhaus Limited
- Sophies Cars Limited
- NRG Installer Limited
- Innolift UK Limited
- I.G. Vehicles Limited
- Essex Motor Centre Limited
- CW Specialist Cars Limited

<https://www.fca.org.uk/publication/final-notices/spand-motors-joseph-jones-trading-as-2017.pdf>

<https://www.fca.org.uk/publication/final-notices/church-hill-finance-2017.pdf>

<https://www.fca.org.uk/publication/final-notices/alistair-charles-proctor-2017.pdf>

<https://www.fca.org.uk/publication/final-notices/eco-insulation-ltd-2017.pdf>

<https://www.fca.org.uk/publication/final-notices/woodston-limited-2017.pdf>

<https://www.fca.org.uk/publication/final-notices/motorhaus-ltd-2017.pdf>

<https://www.fca.org.uk/publication/final-notices/sophies-cars-ltd-2017.pdf>

<https://www.fca.org.uk/publication/final-notices/nrg-installer-ltd-2017.pdf>

<https://www.fca.org.uk/publication/final-notices/innolift-uk-limited-2017.pdf>

<https://www.fca.org.uk/publication/final-notices/i.g-vehicles-limited-2017.pdf>

<https://www.fca.org.uk/publication/final-notices/essex-motor-centre-ltd-2017.pdf>

<https://www.fca.org.uk/publication/final-notices/cw-specialist-cars-limited-2017.pdf>

FCA warnings

	Date of warning	Details
iCash Loans, ICashLoans	10 November 2017	Clone firm https://www.fca.org.uk/news/warnings/icash-loans-icashloans-clone
Home Owner Loans Online	8 November 2017	Not authorised https://www.fca.org.uk/news/warnings/home-owner-loans-online
Bokan Capital	8 November 2017	Clone firm https://www.fca.org.uk/news/warnings/bokan-capital-clone-authorized-firm

Policy developments

FCA		PRA	
Proposed developments			
		Deadline for responses	
Consultation papers		2 February 2018	Procedure for the Enforcement Decision Making Committee Following the proposal for the establishment by the Bank of England of an Enforcement Decision Making Committee in a previous consultation paper in July 2016, which in turn responded to HM Treasury's Review of enforcement decision making within the FCA and the PRA, the Bank of England has (on 10 November) published a consultation paper setting out

				<p>details of how it is proposed the new committee will operate.</p> <p>http://www.bankofengland.co.uk/publications/Pages/other/edmc/cpedmc2017.aspx</p> <p>http://www.bankofengland.co.uk/publications/Pages/other/edmc/cpedmc2016.aspx</p> <p>https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/389063/enforcement_review_response_fina1.pdf</p>
			9 March 2018	<p>CP 24/17: Solvency II: Internal models – modelling of the matching adjustment</p> <p>On 10 November, the PRA published a consultation paper seeking feedback on a draft supervisory statement setting out its proposed expectations of firms regarding the application of the Solvency II matching adjustment within the calculation of the Solvency Capital Requirement.</p> <p>http://www.bankofengland.co.uk/pr/Pages/publications/cp/2017/cp2417.aspx</p>
			9 February 2018	<p>CP 23/17: Financial management and planning by insurers</p> <p>On 9 November, the PRA published a consultation paper on effective financial management and planning by insurance firms and groups.</p> <p>http://www.bankofengland.co.uk/pr/Pages/publications/cp/2017/cp2317.aspx</p>

Finalised Policy and guidance				
		Implementation/effective date		
Policy statements			Various	<p>PS 27/17: Regulated fees and levies – adjustments to rates for 2017/18</p> <p>On 6 November, the PRA published a policy statement setting out final rules intended to correct the fee rates for the PRA’s Annual Funding Requirement (AFR) for 2017/18 previously published in PS17/17 ‘Regulated fees and levies: rates for 2017/18’.</p> <p>http://www.bankofengland.co.uk/pr/Pages/publications/ps/2017/ps2717.aspx</p>

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