

# This week at the UK regulators

## Thirty second guide: The week in overview

The only UK enforcement development this week was the FCA's first-ever Serious Crime Prevention Order against an individual who had been found guilty of acting as a "lender of last resort" without authorisation or licence.

The FCA published a report on the supervision of algorithmic trading in wholesale markets and the PRA published a consultation paper on its proposed expectations of firms' governance and risk management of algorithmic trading. The FCA and the PRA also announced the appointment of Marshall Bailey as the new Chair of the Financial Services Compensation Scheme with effect from 1 April 2018.

Further afield, the Hong Kong SFC reprimanded and fined Interactive Brokers Hong Kong Limited HK\$4.5 million for breaches of the Code of Conduct arising from the execution of market orders using electronic and algorithmic trading systems. The JFSA introduced new fair disclosure rules and AML and CTF guidelines and the MAS issued new guidance about the use of technology to facilitate safe non-face-to-face customer on-boarding.

## FCA uses power to apply for first Serious Crime Prevention Order

On 9 February, Dharam Prakash Gopee was sentenced to three-and-a-half years' imprisonment and issued with a Serious Crime Prevention Order (SCPO), which will last for five years upon his release from custody. This follows Mr Gopee's conviction last week on charges brought by the FCA for offences under the Consumer Credit Act 1974 and the Financial Services and Markets Act 2000.

This is the first time the FCA has sought an SCPO, which the authority stated underscores the seriousness of Mr Gopee's unlicensed and unauthorised conduct. The SCPO prevents Mr Gopee from conducting any business in the credit sphere, limits the number of bank facilities he is permitted to operate and requires him to make disclosures of those banking facilities to the FCA. Breaching the terms of the SCPO is a criminal offence and punishable by up to five years' imprisonment.

<https://www.fca.org.uk/news/press-releases/gopee-convicted-illegal-money-lender-sentenced>

<https://www.fca.org.uk/news/press-releases/dharam-prakash-gopee-guilty-acting-illegal-money-lender>

## FCA and PRA publish papers on the supervision of algorithmic trading

On 12 February, the FCA published a report that summarises the key areas of focus for the supervision of

algorithmic trading and highlights areas of good and bad practice observed in previous wholesale industry reviews. The FCA noted that, while automated technology can benefit investors, including through increased execution speed and reduced costs, it can amplify certain risks that require compliance, risk management and other key oversight functions to keep pace with technological advancements. The FCA focused on five key areas within algorithmic trading compliance in wholesale markets, namely: (i) defining algorithmic trading; (ii) development and testing processes; (iii) risk controls; (iv) governance and oversight; and (v) market conduct.

On 12 February, the PRA published a consultation paper on proposed expectations regarding firms' governance and risk management of algorithmic trading (see below for further details). Unlike the FCA report, the PRA paper is a formal consultation on a draft supervisory statement, which sets out proposed expectations for the prudential aspects of risk management and governance of algorithmic trading by PRA-regulated firms.

<https://www.fca.org.uk/news/press-releases/fca-publishes-report-supervision-algorithmic-trading>

<https://www.bankofengland.co.uk/prudential-regulation/publication/2018/algorithmic-trading>

## FCA and PRA appoint new Chair of the FSCS

On 13 February, the FCA and the PRA announced the

appointment of Marshall Bailey as Chair of the Financial Services Compensation Scheme Ltd with effect from 1 April 2018. The appointment was made by the FCA Board and the Prudential Regulation Committee, with the approval of HM Treasury. Marshall Bailey succeeds Lawrence Churchill, who is stepping down after serving two terms.

<https://www.fca.org.uk/news/press-releases/fca-and-pra-appoint-new-chair-fscs>

## FCA warnings

Name of firm	Date of warning	Details
Carina Asset Management / Sloane Court Capital / SS & Co Consultancy Limited	16 February 2018	Not authorised <a href="https://www.fca.org.uk/news/warnings/carina-asset-management-sloane-court-capital-ss-co-consultancy-limited">https://www.fca.org.uk/news/warnings/carina-asset-management-sloane-court-capital-ss-co-consultancy-limited</a>
XMarkets.com	14 February 2018	Not authorised <a href="https://www.fca.org.uk/news/warnings/xmarkets-com">https://www.fca.org.uk/news/warnings/xmarkets-com</a>
Your Loan Deals	13 February 2018	Not authorised <a href="https://www.fca.org.uk/news/warnings/your-loan-deals-clone-authorized-firm">https://www.fca.org.uk/news/warnings/your-loan-deals-clone-authorized-firm</a>

## Policy developments

FCA		PRA	
<b>Proposed developments</b>			
		<b>Deadline for responses</b>	
<b>Consultation papers</b>		7 May 2018	<b>Algorithmic trading (CP 5/18)</b> On 12 February, the PRA published a consultation paper setting out the PRA's proposed

				<p>expectations regarding firms' governance and risk management of algorithmic trading, including proposing a supervisory statement that would apply from 30 June 2018. The paper concerns: governance; approval process (by firms); testing and deployment; inventories and documentation; and risk management and other systems and control functions.</p> <p><a href="https://www.bankofengland.co.uk/prudential-regulation/publication/2018/algorithmic-trading">https://www.bankofengland.co.uk/prudential-regulation/publication/2018/algorithmic-trading</a></p>
			16 May 2018	<p><b>Credit risk mitigation: Eligibility of guarantees as unfunded credit protection (CP 6/18)</b></p> <p>On 16 February, the PRA published a consultation paper which sets out proposed changes to supervisory statement 17/13 'Credit risk mitigation' to clarify expectations regarding the eligibility of guarantees as unfunded credit protection under Part Three, Title II, Chapter 4 (Credit risk mitigation) of the Capital Requirements Regulation (575/2013).</p> <p><a href="https://www.bankofengland.co.uk/prudential-regulation/publication/2018/credit-risk-mitigation-eligibility-of-guarantees">https://www.bankofengland.co.uk/prudential-regulation/publication/2018/credit-risk-mitigation-eligibility-of-guarantees</a></p>

## Further Afield

### SFC fines firm for Code of Conduct breaches arising from electronic trade execution

On 14 February, the Hong Kong Securities and Futures Commission reprimanded and fined Interactive Brokers Hong Kong Limited (IBHK) HK\$4.5 million for breaching the Code of Conduct by executing market orders using electronic and algorithmic trading systems without adequate acceptance testing and effective price and volume controls. The SFC's disciplinary action followed two market disruption incidents in 2015 and 2016 when share prices of two Hong Kong-listed companies rose by 48.7 per cent and 126 per cent, respectively, in less than two minutes.

A review found that IBHK executed market orders by placing the entire order volume to the market and submitting repeatedly the unexecuted part of the order at the next available price until the entire order was completed. It also found that IBHK did not take into account market liquidity when executing the orders and did not have effective price and volume controls to prevent execution from disrupting the market.

<http://www.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=18PR14>

### JFSA introduces new fair disclosure rules

On 6 February, the Financial Services Agency of Japan announced new rules under the Financial Instruments and Exchange Act of Japan to introduce Fair Disclosure Rules with effect from 1 April 2018. The rules will apply to issuers of listed shares, debt securities and exchange-traded funds, as well as to listed real estate investment trusts.

The JFSA states that the rules reflect practices similar to those in Europe and the United States, including a requirement for a listed company to provide undisclosed material information to the public when such information has been provided in the course of the company's investor relations activities unless subject to any other confidentiality obligations. The scope of material information will be wider than that applied under insider trading regulations, so the

JFSA has warned that companies may need to reconsider their control of information policies and procedures.

For further details and links to the rules (in Japanese), please see our recent Clifford Chance International Regulatory Update.

[https://www.cliffordchance.com/briefings/2018/02/international\\_regulatoryupdate0509februar.html](https://www.cliffordchance.com/briefings/2018/02/international_regulatoryupdate0509februar.html)

### JFSA introduces new AML and CTF guidelines

On 6 February, the JFSA published new guidelines with immediate effect relating to Anti-Money Laundering and Counter-Terrorist Financing, together with the JFSA's responses to its public consultation. The guidelines are the first comprehensive and industry-wide standards for AML and CTF compliance for JFSA-regulated entities which qualify as 'specified business operators' (*tokutei jigyousha*) under local AML legislation.

The guidelines adopt a risk-based approach and set out requirements and expectations of regulated entities, including in respect of transaction screening, customer due diligence and senior management responsibilities for building and maintaining appropriate lines of defence.

For further details and links to the guidelines (in Japanese), please see our recent Clifford Chance International Regulatory Update.

[https://www.cliffordchance.com/briefings/2018/02/international\\_regulatoryupdate0509februar.html](https://www.cliffordchance.com/briefings/2018/02/international_regulatoryupdate0509februar.html)

### MAS encourages financial institutions to use technology to on-board customers more efficiently

On 7 February, the Monetary Authority of Singapore issued new guidance to financial institutions about the use of innovative technology solutions to facilitate safe, non-face-to-face customer on-boarding. The MAS stated that the introduction of measures to guard against impersonation, such as biometric identification, real-time video conferencing and secure digital signatures using Public Key Infrastructure-based credentials, should increase efficiency and improve the customer on-boarding experience while

safeguarding against money laundering and terrorism financing risks.

<http://www.mas.gov.sg/News-and-Publications/Media-Releases/2018/MAS-Encourages%20Financial-Institutions-to-Use-Technology-to-On-Board-Customers-More-Efficiently.aspx>

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