

This week at the UK regulators

Thirty second guide: The week in overview

The main enforcement development last week was the imposition by the FCA of a financial penalty of almost £2 million on a credit card lender for failures to disclose the full price of an add-on product. The firm concerned also agreed a wide-ranging scheme for compensation to be paid to affected customers. The action came in the same week as the FCA has published its policy setting out final rules and guidance on persistent credit card debt and earlier intervention. In addition to this and several other minor enforcement actions, the FCA has also imposed restrictions on two firms which have been placed into insolvency, and is continuing to carry out an investigation into the firms and assisting authorities in the United States with their ongoing investigations.

In other UK developments, the FCA has confirmed its intention to consult by summer 2018 on policy proposals regarding a public register of key individuals in firms regulated by the FCA and the PRA has issued a response to an inquiry by the Treasury Committee concerning Solvency II.

Further afield, the Hong Kong Securities and Futures Commission and the Swiss Financial Market Supervisory Authority have entered into a cooperation agreement relating to financial technology.

FCA imposes fine and agrees restitution package with credit card lender

In a Final Notice published on 27 February 2018, the FCA imposed a fine of £1,976, on credit card lender Vanquis Bank Limited ("Vanquis") for failing to disclose the full price of an add-on product.

The FCA found that Vanquis breached Principles 6 (Customers' interests) and 7 (Communications with clients) of the FCA Principles for Businesses. The FCA concluded that Vanquis failed to ensure customers were informed about the full cost of the relevant product as, whilst Vanquis told customers how the product worked and what the monthly charge was, it did not inform customers that the full cost of the product included an interest component where there was an end of month unpaid balance on their credit card.

In addition to the financial penalty imposed, which was reduced by 30 per cent as Vanquis agreed to settle at an early stage of the FCA's investigation, Vanquis will also pay an estimated £168,781,000 in compensation. It is required to pay some of this amount under section 384 of the Financial Services and Markets Act 2000 but a large proportion of it relates to conduct before 1 April 2014, when the FCA assumed responsibility for consumer credit regulation, and is therefore being paid by way of voluntary restitution.

<https://www.fca.org.uk/news/press-releases/fca-fines-vanquis-1976000-and-orders-vanquis-pay-compensation-customers>

<https://www.fca.org.uk/publication/final-notices/vanquis-bank-limited-2018.pdf>

Other enforcement notices

In separate Final Notices published on 1 March 2018 and 28 February 2018, the FCA imposed cancellations on Mr Leonard Bradley, Tyresmiths 2016 Ltd, Mr Reginald George Arthur Jones, Empire Cars Limited, UK Leisure Parks Limited and Spire Digital Solutions Limited for failures to be open and cooperative.

<https://www.fca.org.uk/publication/final-notices/leonard-bradley-2018.pdf>

<https://www.fca.org.uk/publication/final-notices/tyresmiths-2016-ltd-2018.pdf>

<https://www.fca.org.uk/publication/final-notices/reginald-george-arthur-jones-2018.pdf>

<https://www.fca.org.uk/publication/final-notice/empire-cars-limited-2018.pdf>

<https://www.fca.org.uk/publication/final-notice/uk-leisure-parks-limited-2018.pdf>

<https://www.fca.org.uk/publication/final-notice/spire-digital-solutions-limited-2018.pdf>

FCA places restrictions on two insolvent firms

Following an assessment of the financial positions of Beaufort Securities Limited ("BSL") and Beaufort Asset Clearing Services Limited ("BACSL"), the FCA has (on 1 March 2018) imposed requirements on both firms for them to cease all regulatory activity and not dispose of any firm or client assets without the FCA's consent. Both firms are currently in administration. Following an urgent application by the FCA, the High Court has appointed Russell Downs, Douglas Nigel Rackman and Dan Yoram Schwarzmann of PwC as joint administrators of BSL and joint special administrators of BACSL.

In addition to carrying out its own investigation into the affairs of both BSL and BACSL, the FCA is assisting with a separate investigation into BSL's alleged involvement in securities fraud related to stock of various US publicly-traded companies and international money laundering associated with that conduct that is being carried out by the United States Department of Justice .

<https://www.fca.org.uk/news/press-releases/restrictions-imposed-beaufort-securities-limited-bsl-and-beaufort-asset-clearing-services-limited>

<https://www.justice.gov/usao-edny/pr/six-individuals-and-four-corporate-defendants-indicted-50-million-international>

FCA issues new rules for the credit card market

The FCA has (on 27 February 2018) published a policy statement setting out new rules for the credit card market, and estimates that such changes will save consumers between £310 million and £1.3 billion a year in lower interest charges. The changes are being implemented following a comprehensive study of the credit card market. Under the new rules, firms will be required to take steps to help customers break the cycle of persistent debt and ensure customers who cannot afford to repay more quickly are given help. The rules come into force on 1 March 2018 but firms have until 1 September 2018 to comply.

<https://www.fca.org.uk/news/press-releases/new-credit-card-rules-introduced-fca>

<https://www.fca.org.uk/publications/policy-statements/ps18-04-credit-card-market-study>

PRA's response to the Treasury Committee's inquiry into Solvency II

The PRA has (on 27 February 2018) published its response to the Treasury Committee's inquiry into the Solvency II Directive. The response notes that, whilst the PRA has limited scope to change Solvency II due to its detailed, rules-based nature, the PRA is committed to making improvements to its implementation where appropriate and where the PRA has discretion to do so. The report sets out the PRA's responses to the Treasury Committee's recommendations on specific policy issues and the actions the PRA is taking to address the points raised.

<https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/report/response-to-treasury-committee-inquiry-into-solvency-2.pdf?la=en&hash=390A476FB288EB42E17966B680FF8F3D900033E0>

FCA issues statement on proposals to introduce a public register

The FCA has (on 26 February 2018) issued a statement setting out its intention to consult on proposals to make information available on a wider range of individuals at authorised firms. The FCA and PRA currently maintain a public register of regulated firms and approved individuals. In July 2017, the FCA published proposals to extend the Senior Managers and Certification Regime to almost all regulated firms. Under these proposals, as the FCA will only approve the most senior individuals within firms, only Senior Managers will appear on the register. The FCA has received substantial feedback on the value of maintaining a central public record of "employees" (as defined broadly for these purposes) who are subject to the Certification Regime and other important individuals in firms regulated by the FCA who no longer appear on the register (for

example, non-executive directors, financial advisers, traders and portfolio managers). The FCA will consult by summer 2018 on policy proposals to address this feedback.

<https://www.fca.org.uk/news/statements/fca-statement-proposals-introduce-public-register>

FCA warnings

Name of firm	Date of warning	Details
Ash Loans	27 February 2018	Clone of Authorised Firm
Mitchell Bloch Law Firm	27 February 2018	Not Authorised
Poalim Asset Management	28 February 2018	Clone of Authorised Firm
Policy Expert	01 March 2018	Clone of Authorised Firm
Remington Mining	02 March 2018	Not Authorised

Policy developments

FCA		PRA	
Proposed developments			
		Deadline for responses	
Consultation Papers	On 2 March 2018, the FCA published its quarterly consultation paper (CP18/6) in relation to miscellaneous amendments to the FCA handbook. https://www.fca.org.uk/publication/consultation/cp18-06.pdf	3 April 2018 (Chapters 2 and 3); 13 April 2018 (Chapter 5); 3 May 2018 (Chapter 3)	

Finalised Policy and guidance				
		Implementation/effective date		
Policy statements	<p>On 27 February 2018, the FCA published a policy statement (PS18/4) setting out final rules and guidance on persistent credit card debt and earlier intervention.</p> <p>See further details above.</p> <p>https://www.fca.org.uk/publication/policy/ps18-04.pdf</p>	<p>The rules come into force on 1 March 2018.</p> <p>Firms are to be fully compliant by 1 September 2018</p>		

Further Afield

Hong Kong and Swiss regulators sign Fintech cooperation agreement

The Hong Kong Securities and Futures Commission ("SFC") has entered into an agreement with the Swiss Financial Market Supervisory Authority ("FINMA") to establish a framework for cooperation on financial technology. The SFC and FINMA will cooperate to share information on emerging Fintech trends, developments and related regulatory issues, and the agreement provides for a bilateral mechanism for referrals of innovative firms seeking to enter one another's markets. The agreement came into effect on 23 February 2018.

<http://www.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=18PR18>

http://www.sfc.hk/web/EN/files/ER/MOU/2018.02.23_SFC_FINMA%20Fintech%20Co-operation%20Agreement.pdf

Contacts

Roger Best
Partner

E: roger.best
@cliffordchance.com

Helen Carty
Partner

E: helen.carty
@cliffordchance.com

Carlos Conceicao
Partner

E: carlos.conceicao
@cliffordchance.com

Dorian Drew
Partner

E: dorian.drew
@cliffordchance.com

Jeremy Kosky
Partner

E: jeremy.kosky
@cliffordchance.com

Rae Lindsay
Partner

E: rae.lindsay
@cliffordchance.com

Michael Lyons
Partner

E: michael.lyons
@cliffordchance.com

Matthew Newick
Partner

E: matthew.newick
@cliffordchance.com

Kelwin Nicholls
Partner

E: kelwin.nicholls
@cliffordchance.com

Luke Tolaini
Partner

E: luke.tolaini
@cliffordchance.com

Editors

Chris Stott
Lawyer

E: chris.stott
@cliffordchance.com

Kathryn Williams
Lawyer

E: kathryn.williams
@cliffordchance.com

This publication does not necessarily deal with every important topic or cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice.

Clifford Chance, 10 Upper Bank Street, London, E14 5JJ

© Clifford Chance 2018

Clifford Chance LLP is a limited liability partnership registered in England and Wales under number OC323571

Registered office: 10 Upper Bank Street, London, E14 5JJ

We use the word 'partner' to refer to a member of Clifford Chance LLP, or an employee or consultant with equivalent standing and qualifications

www.cliffordchance.com

If you do not wish to receive further information from Clifford Chance about events or legal developments which we believe may be of interest to you, please either send an email to nomorecontact@cliffordchance.com or by post at Clifford Chance LLP, 10 Upper Bank Street, Canary Wharf, London E14 5JJ

Abu Dhabi • Amsterdam • Bangkok • Barcelona • Beijing • Brussels • Bucharest • Casablanca • Dubai • Düsseldorf • Frankfurt • Hong Kong • Istanbul • London • Luxembourg • Madrid • Milan • Moscow • Munich • New York • Paris • Perth • Prague • Rome • São Paulo • Seoul • Shanghai • Singapore • Sydney • Tokyo • Warsaw • Washington, D.C.

*Clifford Chance has a co-operation agreement with Al-Jadaan & Partners Law Firm in Riyadh.