

# FSA Update

## 24 January 2011

### At the FSA last week:

- Fine and customer redress for investment advice failings** - The FSA has fined Barclays Bank Plc £7.7 million for failings in relation to the sale of two funds. Between July 2006 and November 2008 the bank sold Aviva's Global Balanced Income Fund and Global Cautious Income Fund to 12,331 customers with investments totalling £692 million. The bank had commenced a past business review and will contact customers and pay redress where appropriate. The FSA found that there were a number of failings in the way the funds were sold. These included failing to: (1) ensure the funds were suitable for customers in view of their investment objectives, financial circumstances, investment knowledge and experience; (2) ensure that training given to sales staff adequately explained the risks associated with the funds; (3) ensure product brochures and other documents given to customers clearly explained the risks involved and could not mislead customers; and (4) have adequate procedures for monitoring sales processes and to respond promptly when issues were identified. The bank received a 30% discount for early settlement.  
[http://www.fsa.gov.uk/pubs/final/barclays\\_jan11.pdf](http://www.fsa.gov.uk/pubs/final/barclays_jan11.pdf)
- Fine for spread bet transaction reporting failures** - The FSA has fined City Index Limited £490,000 for failing to provide accurate transaction reports to the FSA. Firms are required to ensure they submit data for reportable transactions by close of business the day after a trade is executed. The FSA uses this data to detect and investigate suspected market abuse including insider trading and market manipulation. The FSA found that between November 2007 and September 2009, the firm failed to submit accurate transaction reports in respect of approximately 2 million transactions, representing nearly 60% of its reportable transactions. It failed to report approximately 55,000 transactions and reported approximately 1,970,000 transactions with one or more data fields completed improperly. The firm was also found to be in breach of Principles 2 (Skill, care and diligence) and 3 (Management and control) of the FSA's Principles of Business as it failed to put in place a mechanism for ensuring the accuracy and validity of its transaction reports, and failed to identify fundamental errors in its transaction reporting process upon the implementation of a new trading platform. These breaches occurred despite the FSA sending repeated reminders to firms of their obligations to provide accurate data and of the importance of compliance with the FSA rules on transaction reporting. The firm received a 30% discount for early settlement. The fine would otherwise have been £700,000.  
[http://www.fsa.gov.uk/pubs/final/city\\_index.pdf](http://www.fsa.gov.uk/pubs/final/city_index.pdf)
- Fines and bans for advice failings** - The FSA has fined and banned the two partners of the investment firm Clark Rees LLP for failing to ensure the firm made suitable recommendations to its customers regarding Unregulated Collective Investment Schemes (UCIS). Paul Clark was fined £10,500 and Ceri Rees was fined £17,500. They have been banned from performing senior roles and also from selling UCIS to customers for two years. The FSA found that both partners had failed to make themselves aware of the statutory requirement on the promotion of UCIS to retail customers. UCIS cannot be promoted to retail investors unless they meet specific exemptions; for example if the customer can be shown to be a sophisticated or high net worth investor. However, neither partner was aware of these restrictions, and as a result, promoted and recommended UCIS to ordinary retail investors. The FSA found a further failing in that Mr Clark and Mr Rees did not make themselves aware of the FSA's capital requirements and had wrongly relied on their own personal assets to meet these requirements [http://www.fsa.gov.uk/pubs/final/paul\\_clark\\_fn.pdf](http://www.fsa.gov.uk/pubs/final/paul_clark_fn.pdf) .  
[http://www.fsa.gov.uk/pubs/final/ceri\\_rees\\_fn.pdf](http://www.fsa.gov.uk/pubs/final/ceri_rees_fn.pdf)

### Headlines

**Fine and customer redress for investment advice failings**

**Fine for spread bet transaction reporting failures**

**Fines and bans for advice failings**

**Prison sentence for insider dealing and money laundering**

**FSA confirms professional standards for investment advisers from 2013**

**New Memorandum of Understanding between FSA and FRC**

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- **Prison sentence for insider dealing and money laundering** - Neil Rollins, a former senior manager of PM Onboard Limited, a waste industry firm, was sentenced on Friday to 27 months in prison for insider dealing and money laundering. He was also ordered to pay £197,000.66 in confiscation. On 26 November 2010, after a trial, Mr Rollins was found guilty of five counts of insider dealing and four counts of money laundering after he traded on the basis of information he obtained as a result of his senior position and laundered the proceeds. Based on his knowledge of the company's worsening financial position he sold his entire shareholding in PM Group plc and encouraged his wife to do the same. When he became aware of the FSA's interest in his dealing he laundered the proceeds to try to hide his conduct.

<http://www.fsa.gov.uk/pages/Library/Communication/PR/2011/010.shtml>

- **FSA confirms professional standards for investment advisers from 2013** - The FSA has published Policy Statement PS11/01: "Distribution of retail investments: Delivering the RDR - professionalism Feedback to CP10/14 and CP10/22 and final rules". It confirms that retail investment advisers will need to hold a Statement of Professional Standing (SPS) if they want to give independent or restricted advice after January 2013. The statement will provide customers with evidence that the adviser subscribes to a code of ethics, is qualified, and has kept their knowledge up to date. The SPS will be issued by FSA accredited bodies which satisfy the following criteria:

- they act in the public interest and further the development of the profession;
- they carry out effective verification services;
- they have appropriate systems and controls in place and provide evidence to us of continuing effectiveness; and
- they cooperate with the FSA on an ongoing basis.

The Policy Statement also sets out a requirement for investment advisers to complete at least 35 hours of Continuing Professional Development (CPD) each year, at least 21 hours of which must be structured. This could involve courses, lectures, seminars or workshops. All CPD has to focus on demonstrable change to improve advisers' skills and knowledge. FSA research shows that over 70% of advisers are already achieving this amount of CPD. When the RDR comes into force in January 2013, the FSA will start collecting information about individual advisers, such as the qualifications they hold and which accredited body they use.

However, in preparation for 2013, the first of the Professionalism rules will come into force in July 2011, and from this point firms will be obliged to notify the FSA if any adviser falls below the required standard of competence or ethical behaviour.

[http://www.fsa.gov.uk/pubs/policy/ps11\\_01.pdf](http://www.fsa.gov.uk/pubs/policy/ps11_01.pdf)

- **New Memorandum of Understanding between FSA and FRC** – The FSA and the Financial Reporting Council have agreed a new memorandum of understanding which they say will enable a greater degree of co-operation and information exchange between the two regulators. The MOU underpins the increased dialogue between the FSA and FRC on accounting and disclosure issues that has been in place since 2005 and follows the publication of a joint discussion paper on the audit of financial institutions published in June 2010. The aim of the new agreement is to deliver a closer working relationship between the FSA and the FRC's Audit Inspection Unit (AIU) and to enable both organisations to improve their oversight of the audits of authorised firms. The AIU operates a risk-based system of audit inspections and its scope has been extended recently to include all banks incorporated in the UK to better support markets and the prudential regulator.

[http://www.fsa.gov.uk/pubs/mou/fsa\\_frc.pdf](http://www.fsa.gov.uk/pubs/mou/fsa_frc.pdf)

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