

FSA Update

13 June 2011

At the FSA last week:

- **Action taken against unauthorised land banks**

The High Court has, on the application of the FSA, wound up Plott UK Limited (Plott) and approved the appointment of a liquidator who will identify, realise, and distribute the company's assets to its creditors. In a separate hearing, the High Court continued a world-wide freezing and restraint order against European Property Investments (UK) Limited (EPI). The FSA says that it believes that EPI is a 'phoenix' of Plott, that is: it took over Plott's business once the FSA's action against Plott began. The FSA says that between May 2009 and April 2011 Plott collected approximately £3.9 million from UK consumers. Plott had been marketing plots of land as an investment opportunity and operating an unauthorised collective investment scheme. While the FSA does not regulate land as an investment, it does regulate the operation of collective investment schemes. Plott promised its investors a return of investment of, on average, between 200 and 300%, yet at least one of the sites it was promoting was in a designated area of outstanding natural beauty and therefore highly unlikely to ever receive planning permission. In the short time that EPI was operating, between 1st April and 27th May 2011, EPI accumulated around £639,000. The FSA says that it has managed to freeze and secure £180,000 while the rest was transferred out of EPI's account before the freezing order was obtained. http://www.fsa.gov.uk/pages/Library/Communication/PR/2011/04_8.shtml

- **Quarterly Consultation published**

The FSA has published Consultation Paper CP11/11: "Quarterly Consultation", in which it invites comments on miscellaneous amendments to the Handbook. Among other things, the consultation paper proposes amendments to:

- add a new rule to the Senior Management Arrangements, Systems and Controls sourcebook (SYSC) to clarify that common platform firms conducting investment services and activities from a branch in another EEA State are subject to the host state's requirements under Article 13(2) of MiFID;
- extend the list of appropriate qualifications for individual advisers and add bodies to the list for accredited body status;
- provide guidance on certain descriptions firms should use to promote financial products;
- clarify how consumers may be able to cancel ongoing adviser charges for services relating to a financial product without being required to withdraw his or her investments;
- clarify guidance in relation to property investment clubs and land investment schemes; and

Key Issues

Action taken against unauthorised land banks

Quarterly Consultation published

Proposed guidance published on insurance sales

FSA publishes Market Watch 39

General Insurance Newsletter published

Life Insurance Newsletter published

FSA speaks about derivatives reform

If you would like to know more about the subjects covered in this publication or our services, please contact:

Regulatory Group Contacts

[Roger Best](#) +44 (0)20 7006 1640
[Matthew Newick](#) +44 (0)20 7006 8492
[Martin Saunders](#) +44 (0)20 7006 8630
[Carlos Conceicao](#) +44 (0)20 7006 8281
[Luke Tolaini](#) +44 (0)20 7006 4666

FSA Update Editor

[Susan Poffley](#) +44 (0)20 7006 5918

To email one of the above, please use firstname.lastname@cliffordchance.com

Clifford Chance LLP, 10 Upper Bank Street,
London, E14 5JJ, UK
www.cliffordchance.com

- simplify the way firms submit written reports to the FSA.

The FSA has invited comments on chapter 3 of CP11/11 by 6 July 2011 and on all other chapters by 6 August 2011. http://www.fsa.gov.uk/pubs/cp/cp11_11.pdf

- **Proposed guidance published on insurance sales**

The FSA has published proposed guidance on the selling of general insurance policies through price comparison websites. In particular, the guidance advises firms operating price comparison websites to:

- review their regulated activities, ensure they are appropriately authorised or otherwise exempt;
- ensure they only enter into contracts with firms holding the appropriate authorisation and permissions to conduct that regulated activity (or who are exempt);
- withdraw their assistance from third parties if the party is in breach of the general prohibition;
- review their disclosure documentation, sales procedures and terms and conditions and make sure that these are compliant with all relevant regulatory requirements including the FSA Principles, ICOBS and the Unfair Terms in Consumer Contracts Regulations 1999; and
- establish, implement and maintain adequate policies and procedures to ensure the firm complies with all relevant obligations under the regulatory system and for countering the risk of furthering financial crime, in particular breaches of the general prohibition and restrictions on financial promotion.

The FSA has invited comments on the proposed guidance by 8 August 2011. http://www.fsa.gov.uk/pubs/guidance/gc11_13.pdf

- **General Insurance Newsletter published**

The FSA has published issue 5 of its General Insurance Newsletter, which looks at:

- allegations of discrimination in the market for solicitors' professional indemnity insurance;
- the FSA's current thinking on Solvency II;
- current considerations related to the Gender Directive;
- a consumer alert about Asset Income Plan Limited;
- tracing employers' liability insurers;
- the Insurance Mediation Directive; and
- the Consumer Insurance (Disclosure and Representations) Bill http://www.fsa.gov.uk/pubs/newsletters/gi_jun11.pdf

- **Life Insurance Newsletter published**

The FSA has published issue 5 of its Life Insurance Newsletter, which looks at:

- the FSA's current thinking on Solvency II;
- current considerations related to the Gender Directive;
- a consumer alert about Asset Income Plan Limited;
- improving protection for with-profits policy-holders;
- assessing suitability; and
- the Consumer Insurance (Disclosure and Representations) Bill http://www.fsa.gov.uk/pubs/newsletters/life_jun11.pdf

- **FSA speaks about derivatives reform**

Alexander Justham, the FSA's Director of Markets, has spoken at the International Derivatives Expo in London about "Derivatives reform - progress against the G20 objectives". http://www.fsa.gov.uk/pages/Library/Communication/Speeches/2011/0607_aj.shtml

This Client briefing 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.

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.

www.cliffordchance.com

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.