C L I F F O R D
C H A N C E

Briefing note

10 April 2012

Last week at the FSA: -

FSA decides to impose £450,000 fine for market abuse – matter referred to Upper Tribunal

In a Decision Notice dated 27 February but released last week, the FSA has decided to impose a financial penalty of £450,000 on **Ian Hannam** for market abuse. Mr Hannam has referred the FSA's decision to the Upper Tribunal.

The FSA maintains that Mr Hannam (contrary to section 118(3) of the Financial Services and Markets Act 2000 ("**FSMA**")), in two e-mails sent in 2008, improperly disclosed inside information received from one of his clients (an oil exploration and production company) to other clients.

The FSA, in the Decision Notice issued to Mr Hannam, acknowledges that Mr Hannam did not set out to engage in market abuse by making the disclosures, was acting in his client's interests and did not act without honesty or integrity. The FSA also makes it clear that Mr Hannam has co-operated with its investigation.

The proposed action against Mr Hannam, although not confirmed pending outcome of the Upper Tribunal hearing, is the fifth occasion in 2012 on which the FSA has imposed (or in this case, proposed) significant financial penalties on individuals under the civil market abuse regime set out in FSMA and its Statements of Principle for Approved Persons ("**APER**") for their conduct in disclosing inside or confidential information.

http://www.fsa.gov.uk/static/pubs/final/ian-hannam.pdf

FSA arrests trader for unauthorised business

The FSA has (on 3 April), arrested an individual, understood to be a foreign exchange trader, and executed a search warrant at premises in East London in connection with alleged offences under FSMA and the Fraud Act 2006. The offences are stated by the FSA to be connected with a suspected unauthorised foreign exchange trading scheme.

http://www.fsa.gov.uk/library/communication/pr/2012/037.shtml

FSA releases details of consumer protection action taken against firms

The FSA has released details of the exercise of its own initiative variation of permission ("**OIVOP**") powers (under section 45 of FSMA) earlier this year against two firms in connection with consumer protection concerns. Although the action was taken in February and March 2012, the notices were only publicised by the FSA last week.

On 9 February, the FSA varied the permission of **Equifund Limited**, removing its permission to carry on regulated activities, and requiring it (under section 43 of FSMA) to notify clients that it no longer had permission to carry on regulated activities and that it did not have in place professional indemnity insurance. The action was taken in respect of breaches of Principle 4 (financial prudence) of the FSA's Principles for Businesses ("**the Principles**") through a failure to effect professional indemnity insurance.

On 9 March, the FSA varied the permission of **Pallister Credit Union Limited** ("**Pallister**"), removing its permission to carry on regulated activities and requiring it (under section 43 of FSMA) not to make any loans or advances, vary the terms of any loans, redeem any shares, effect any share to loan transactions, repay any deposits or deal with any of its assets without the FSA's consent. The action against Pallister is based

Key issues

- FSA decides to impose £450,000 fine for market abuse – matter referred to Upper Tribunal
- FSA arrests trader for unauthorised business
- FSA releases details of consumer protection action taken against firms
- FSA publicises financial advice changes
- FSA consults on guidance on assessing suitability

on breaches of the provisions of the FSA's Credit Unions Sourcebook ("**CRED**") and Credit Unions New Sourcebook ("**CREDS**") through a failure to maintain a positive amount of capital.

http://www.fsa.gov.uk/static/pubs/final/equifund.pdf

http://www.fsa.gov.uk/static/pubs/final/pallister.pdf

FSA publicises financial advice changes

The FSA has published a short guide for consumers explaining the changes to the way in which they can expect to receive financial advice as the result of the Retail Distribution Review ("**RDR**"). The guide sets out brief details of the requirements which will be imposed on advisers from 31 December 2012 in respect of training and charging.

http://www.fsa.gov.uk/static/pubs/consumer_info/rdr-consumer-guide.pdf

FSA consults on guidance on assessing suitability

The FSA has (on 4 April) set out in a Guidance Consultation paper (GC12/06) proposed changes to guidance relating to replacement business and centralised investment propositions ("**CIPs**").

The paper follows concerns identified in the FSA's *Retail Risk Conduct Outlook 2012* and a subsequent thematic review into how investment advisory firms are changing their business models in preparation for the rule changes which will be introduced as the result of the RDR.

The paper sets out the findings of this thematic review, including examples of good and poor practice, and outlines the steps which the FSA considers firms offering advice in relation to replacement investments and/or CIPs should take when deciding whether a recommendation to switch a client's investment is in the client's best interests, when designing or adopting CIPs and to ensure that individual recommendations to invest in a CIP are suitable.

http://www.fsa.gov.uk/library/policy/guidance_consultations/2012/gc1206

http://www.fsa.gov.uk/static/pubs/other/rcro12.pdf

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