

FSA Update

Last week at the FSA:-

Final Notices

- The FSA has (on 9 November) issued a prohibition order to **Malcolm Green** following his conviction in February 2012 for offences relating to fraud, obtaining a money transfer by deception and false accounting. <http://www.fsa.gov.uk/static/pubs/final/malcolm-green.pdf>
- The FSA has (on 6 November) issued a prohibition order to **Ryan Burnside** following his conviction in December 2011 for fraud. <http://www.fsa.gov.uk/static/pubs/final/ryan-burnside.pdf>

FSA gives guidance on conflicts of interest for asset managers

The FSA has (on 9 November) written to the CEOs of asset management firms and issued guidance on the steps which it considers they should be taking to prevent and deal effectively with conflicts of interest. The letter follows a thematic review of asset management firms, assessing their arrangements for managing conflicts of interest.

The FSA's findings included failures by many firms to establish an adequate framework for identifying and managing conflicts of interests and breaches of rules governing the use of customers' commissions and the fair allocation of trades between customers. It also noted that employees often lacked awareness of

situations where short-term business goals conflicted with the long-term interests of customers.

The FSA has given detailed feedback to the firms visited during the review and has, in some cases, required firms to justify the approach they are currently taking or take remedial action. In some cases, "skilled person" reviews under s166 of FSMA have been commenced, and the FSA has not ruled out enforcement action against some firms for more serious breaches.

The FSA has set out that it expects the guidance to be discussed at board level. Each firm's CEO has been required to complete and return the 'attestation' in Appendix 1 of the guidance by 28 February 2013 to confirm to the FSA that the firm is compliant with its rules.

A second round of thematic visits on conflicts of interest is planned and FSA will use the responses received to inform the selection of firms for follow up assessment visits.

<http://www.fsa.gov.uk/static/pubs/other/conflicts-of-interest.pdf>

Consultation papers

- On 8 November, the FSA issued a consultation paper (CP12/31) proposing changes to its Prudential sourcebook for banks, Building Societies and Investment Firms ("BIPRU") by **removing the simplified ILAS BIPRU firm liquid asset buffer scalar**. Under the proposed changes, the automatic increase to a simplified buffer requirement of 70 per cent, planned to come into effect on 1 July 2013 would

be removed, and firms would be required to continue to maintain a liquid assets buffer of not less than 50 per cent.

Firms have been invited to respond to the proposals by 8 December 2012.

<http://www.fsa.gov.uk/static/pubs/cp/cp12-31.pdf>

- On 6 November, the FSA published a consultation paper (CP12/30) setting out the **proposed arrangements for handling complaints against the Bank of England, the Financial Conduct Authority and the Prudential Regulatory Authority**.

Firms and individuals have been invited to comment on the proposals by 6 February 2013.

<http://www.fsa.gov.uk/static/pubs/cp/cp12-30.pdf>

Further afield

Former broker sentenced for investment fraud

On 5 November, former broker **Nicholas Levene** was sentenced to 13 years' imprisonment for fraud, false accounting and obtaining a money transfer by deception. He was

Key issues

- FSA gives guidance on conflicts of interest for asset managers
- Consultation papers
- Former broker sentenced for investment fraud

convicted on 24 September, when he pleaded guilty to charges brought by the Serious Fraud Office ("SFO"). Mr Levene admitted that, between 2005 and 2009, he accepted money from investors on the basis that he would purchase shares on their behalf, but in fact used the money for his own purposes.

Confiscation proceedings under the Proceeds of Crime Act 2002 are due to commence in March 2013.

Although he is no longer an approved person, the SFO took action to ban Mr Levene from the financial services industry after he is released. Using its powers under the Serious Crime Act, it applied for and obtained a Serious Crime Prevention Order, under which Mr Levene is prohibited from promoting or advising on financial investments for a period of five years after his release.

<http://www.sfo.gov.uk/press-room/latest-press-releases/press-releases-2012/stockbroker-jailed-for-ponzi-fraud.aspx>

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