

FSA Update

Last week at the FSA:-

Investment banker convicted of insider dealing

On 15 November, **Thomas Ammann** pleaded guilty to two counts of insider dealing and two counts of encouraging insider dealing under Criminal Justice Act 1993. He will be sentenced at a later date.

His co-defendants, **Jessica Mang** and **Christina Weckwerth**, were acquitted following a trial at Southwark Crown Court.

Mr Ammann admitted dealing in the shares of a Dutch company on the basis of inside information obtained by him whilst working as an investment banker in 2008 and 2009, and of encouraging Ms Mang and Ms Weckwerth to do the same. He becomes the 21st individual to be convicted of insider dealing following prosecution by the FSA.

<http://www.fsa.gov.uk/library/communication/pr/2012/103.shtml>

FSA imposes record equalling fine for retail misconduct

The FSA has (on 14 November) imposed a financial penalty of £10.5 million on **Card Protection Plan Limited** ("CPP"). The FSA found that CPP breached Principles 3 (management and control), 6 (treating customers fairly) and 7 (communications with clients) of its

Principles for Businesses ("the Principles").

The failings related to card protection and identity protection products (together "the Products") sold between January 2005 and March 2011.

The FSA found that CPP did not communicate with customer in a way that was clear, fair and not misleading in relation to the Products during this period as it emphasised that customers would benefit from £50,000 or £100,000 of insurance cover when, in fact, they did not require this cover and failed to explain the limited circumstances in which customers would need the cover. In relation to the identity protection products, it found that the risks of identity theft were overstated.

It found that CPP's sales processes for new policies, cancellations and renewals and arrangements for taking payment for policies during this period did not treat customers fairly.

Finally, it found that, between June 2008 and March 2011, CPP did not organise and control its affairs responsibly or effectively as it did not respond adequately to specific identified failings.

The penalty imposed, which was reduced by 30 per cent as CPP settled at stage one of the FSA's executive settlement procedures, is the equal highest imposed in respect of retail misconduct. It has been combined with an undertaking given by CPP that it will cease relying on a term relating to arrangements for payment for policies, which the FSA found to be unfair. CPP will also

embark upon a customer contact and redress exercise to compensate customers who have been mis-sold products through direct sales processes.

<http://www.fsa.gov.uk/static/pubs/final/card-protection-plan.pdf>

<http://www.fsa.gov.uk/static/pubs/other/cpp-undertaking.pdf>

FSA fines wealth management firm for suitability failings

The FSA has (on 13 November) imposed a financial penalty of £412,000 on **Savoy Investment Management Limited** ("Savoy") for failing to take reasonable care to ensure the suitability of advice given to its wealth management clients on their investment portfolios.

The FSA found that Savoy breached

Key issues

- Investment banker convicted of insider dealing
- FSA imposes record equalling fine for retail misconduct
- FSA fines wealth management firm for suitability failings
- FSA cancels firm's permission for FOS non-compliance
- FSA publicly censures credit union
- FSA consults on implementation of Alternative Investment Fund Managers Directive

principles 3 (management and control) and 9 (customers: relationships of trust) and rules set out in its Conduct of Business Sourcebook ("COBS"). Specific failings identified included inadequate levels of know your customer information and failures maintain client file documents or to implement remedial action in a timely manner.

The financial penalty imposed was reduced by 30 per cent as Savoy settled at stage 1 of the FSA's executive settlement procedures.

The action is the latest to arise from the FSA's thematic review into the wealth management sector, which led to finalised guidance on suitability in March 2011 and a Dear CEO letter in June 2011. In August this year, the FSA confirmed that it is to extend its thematic work in this area to assess whether standards of compliance across the wealth management sector have improved in response to its findings (see FSA Update – 3 September 2012).

<http://www.fsa.gov.uk/static/pubs/final/savoy-investment-management.pdf>

http://www.fsa.gov.uk/pubs/guidance/fq11_05.pdf

http://www.fsa.gov.uk/static/pubs/ceo/dear_ceo_wealth_management.pdf

<https://onlineservices.cliffordchance.com/online/freeDownload.action?key=OBWlbFgNhLNomwBI%2B33QzdFhRQAhp8D%2BxrlGRel2crGqLnALtlyZe%2F1IHUM9aDgwYApckk3JLYLp%0D%0A5mt12P8Wnx03DzsaBGwsIB3EVF8XihbSpJa3xHNE7tFeHpEbaelf&attachmentsize=184685>

FSA cancels firm's permission for FOS non-compliance

The FSA has (on 15 November), cancelled the Part IV permission of **Argentum-Lex Wealth Management Limited** for failing to comply with an award made by the Financial Ombudsman Service ("FOS").

<http://www.fsa.gov.uk/static/pubs/final/argentum.pdf>

FSA publicly censures credit union

The FSA has (on 12 November) publicly censured **The Pentecostal Credit Union Limited** ("TPCU") for breaching rules set out in its Credit Unions Sourcebook ("CRED") by lending to a church organisation rather than to individual members. The FSA found that these practices, which it warned against in 2003, continued between 2007 and 2011. The FSA stated that it would have imposed a fine, but decided not to do so in this instance due to the impact it would have on TPCU's members. It has reserved its right to impose financial penalties on credit unions in future if appropriate.

The FSA also took action against **Reverend Carmel Jones** in connection with the same conduct, issuing a statement of his misconduct and making him the subject of a prohibition order. It stated that it would have imposed a financial penalty of £60,000 but for Reverend Jones' financial circumstances.

<http://www.fsa.gov.uk/static/pubs/final/tpcu.pdf>

<http://www.fsa.gov.uk/static/pubs/final/reverend-jones.pdf>

FSA consults on implementation of Alternative Investment Fund Managers Directive

The FSA has (on 14 November) issued a consultation paper (CP12/32) on the implementation of the Alternative Investment Fund Managers Directive ("AIFMD").

The paper follows on from a discussion paper (DP12/1) released in January 2012, which set out the FSA's approach implementation of AIFMD in the UK, which it and HM Treasury are required to complete by 22 July 2013.

Although, as AIFMD is a maximum harmonisation directive, the FSA has limited latitude as to the way in which the changes must be implemented, there are some areas in which it has discretion. The consultation paper discusses the prudential regime applicable to all alternative investment fund managers, the regime for depositaries and the level 1 directive requirements on alternative investment fund managers, which include organisational matters, obligations in relation to the management of funds and transparency obligations towards customers and the FSA's successor, the Financial Conduct Authority ("FCA").

This consultation paper is the first of two which the FSA proposes to issue in relation to the implementation of AIFMD. HM Treasury will consult separately on changes required to primary and secondary legislation.

The FSA has invited comments in relation to the issues raised in the consultation paper by 1 February 2013. It proposes to issue its second consultation paper on the

implementation of AIFMD shortly thereafter, with a view to releasing a policy statement in June 2013.

<http://www.fsa.gov.uk/static/pubs/cp/cp12-32.pdf>

<http://www.fsa.gov.uk/library/policy/dp/2012/12-01.shtml>

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