

This week at the UK regulators

Thirty second guide: The week in overview

This week, the PRA fined a UK subsidiary of an overseas bank for failures related to assessing, maintaining and reporting on the financial resources and capital position. The FCA also issued a final notice prohibiting the former CEO of Catalyst Investment Group Limited from undertaking regulated activity and fining him £450,000.

Away from current enforcement developments, the FCA also wrote to a number of firms and is understood to be working with other agencies in relation to the offshore tax evasion story broken by the International Consortium of Investigative Journalists and the "Panama Papers" leak. The FCA published its business plan for 2016/17 setting out its key priorities for the year, which, particularly topically, continues to include a focus on financial crime and money laundering.

Sam Woods was announced as the new Deputy Governor for Prudential Regulation and Chief Executive of the PRA, effective 1 July 2016. The Chairman of the Treasury Select Committee has written to the Chancellor to ask him to look again at the tax deductibility of certain payments to regulators. The FCA published its February board minutes and the findings of a thematic review on meeting investor expectations in the fund management industry.

Further afield, HM Treasury has established a new Office of Financial Sanctions Implementation to act as a centre of excellence and focus for financial sanctions-related matters and the US Commodity and Futures Trading Commission (CFTC) has awarded an unnamed whistleblower over USD 10 million for information provided as part of a successful enforcement action. Finally, China has released a 5-year plan which will see the acceleration of financial reform.

PRA imposes £1,384,950 fine for capital adequacy failings

The PRA has (on 8 April) issued a final notice imposing a fine of £1,384,950 on QIB (UK) Plc (a UK subsidiary of Qatar Islamic Bank) for failings in assessing, maintaining and reporting to the regulator on its financial resources as a result of failing to undertake a regular assessment of its capital because it failed to recognize that it had to comply with regulatory requirements relating to the assessment and maintenance of financial resources and capital during the period from 30 June 2011 to 31 December 2012.

<http://www.bankofengland.co.uk/pradocuments/supervision/enforcementnotices/en080416.pdf>

FCA issues enforcement notice following Upper Tribunal Decision

The FCA has (on 8 April) issued a final notice imposing a financial penalty of £450,000 and a prohibition order in relation to Mr Timothy Roberts for failure to comply with Principles 1 and 6 of the FCA's Statement of Principles for Approved Persons. This was based on the promotion by Catalyst Investment Group Limited (of which Mr Roberts was formerly CEO) of bonds issued by a Luxembourg

based firm in circumstances where necessary approvals had not been received from the Luxembourg regulator. See This week at the UK regulators, 17 August 2015 for more details on the Upper Tribunal decision in relation to this. The Court of Appeal refused Mr Roberts' application for permission to appeal the Tribunal's decision earlier in the year.

<http://www.fca.org.uk/static/documents/final-notices/timothy-alan-roberts.pdf>

http://www.cliffordchance.com/briefings/2015/08/this_week_at_theukregulators-17august2015.html

Panama Papers – FCA writes to firms

Further to the announcement by Her Majesty's Revenue and Customs (HMRC) (on 3 April) that it had asked the International Consortium of Investigative Journalists (ICIJ) to share the data leaked as part of what has become known as the "Panama Papers" and the related story by the ICIJ story on offshore tax evasion, the FCA is also understood to have written to 20 firms requiring them to urgently review whether they have any links to individuals or entities named in the leaked papers. It is reported that it is working with a number of other agencies on the issue. For more information, see our recent briefing on key points to

consider coming out of the Panama Papers.

<https://www.gov.uk/government/news/hmrcs-response-to-the-icij-story-on-offshore-tax-evasion>

http://www.cliffordchance.com/briefings/2016/04/panama_papers_keypointstoconsider.html

FCA issues Business Plan 2016/17

The FCA has (on 5 April) published its 2016/17 business plan, which sets out the following priorities which will be used to drive decisions about the FCA's thematic work and market studies and inform areas in relation to which the FCA will pay particular attention in conducting its core activities: (i) pensions; (ii) financial crime and AML; (iii) wholesale financial markets; (iv) advice; (v) innovation and technology; (vi) firms' culture and governance; and (vii) treatment of existing customers. Other key elements of the FCA's work will include a focus on sustainable regulation, payment protection insurance, aspects of prudential regulation and elements of the implementation of ring-fencing.

<http://www.fca.org.uk/static/documents/corporate/business-plan-2016-17.pdf>

Sam Woods to be appointed as Deputy Governor for Prudential Regulation and Chief Executive of the PRA

HM Treasury announced (on 8 April) that Sam Woods will be appointed as the Bank of England's Deputy Governor for Prudential Regulation and Chief Executive of the PRA for a 5 year term, effective from 1 July 2016. He will replace Andrew Bailey, who will leave at the end of June to take up his new role as Chief Executive of the FCA.

<https://www.gov.uk/government/news/prudential-regulation-authority-chief-executive-officer-announced>

<http://www.bankofengland.co.uk/publications/Documents/news/2016/045.pdf>

<http://www.bankofengland.co.uk/about/Documents/biographies/woods.pdf>

Treasury Select Committee seeks clarification on tax deductibility of regulatory fines

Andrew Tyrie MP, the Chairman of the Treasury Select Committee, has (on 6 April) written to the Chancellor to seek clarification of the Chancellor's prior response to

questions from Mr Tyrie in relation to some payments to regulators. Mr Tyrie asked the Chancellor to look again at certain payments to regulators, which it was possible might be deemed to be general compensation (to people other than customers) and therefore deductible.

<http://www.parliament.uk/documents/commons-committees/treasury/Correspondence/Treasury-Committee-Chair-to-Chancellor-Tax-deductibility-of-fines-06-04-16.pdf>

<http://www.parliament.uk/documents/commons-committees/treasury/Correspondence/Chancellor-to-Treasury-Committee-Chair-Tax-deductibility-of-fines-15-02-16.pdf>

<http://www.parliament.uk/documents/commons-committees/treasury/Correspondence/Treasury-Chair-to-Chancellor-Tax-deductibility-of-fines-05-02-16.pdf>

FCA publishes board minutes

The FCA published (on 6 April) the minutes of its board meetings on 24 and 25 February 2016. The Board noted that the volume of authorisations had increased significantly and that there was a strong pipeline of cases in the Enforcement division. The Board also agreed that a report would be provided at least annually to the Board on the FCA's application of the Senior Managers Regime.

<http://www.fca.org.uk/static/fca/documents/minutes-fca-board-24-25-february-2016.pdf>

FCA publishes Thematic Review on meeting investors' expectations

The FCA has (on 7 April) published a thematic review (TR 16/3) on meeting investors' expectations. Overall, the FCA found that fund managers are taking the right steps, but emphasised that it is important to ensure that product descriptions are clear and correct (including by disclosing whether funds have a strategy based on an index). The FCA also focussed on effective governance and oversight throughout a fund's life, including when funds are no longer actively marketed. Finally, the FCA highlighted that fund managers need to monitor distribution channels to identify trends that may indicate inappropriate sales, while distributors are expected to ensure that they obtain the correct documents from fund managers. The FCA did identify issues in all of these regards. The FCA directed fund managers to consider the findings and review their arrangements accordingly and for distributors to consider their responsibilities in the FCA's findings.

<http://www.fca.org.uk/static/documents/tr16-3.pdf>

FCA warnings

Name of firm	Date of warning	Details
Rushmoor Associates	8 April 2016	Not authorised http://www.fca.org.uk/news/warnings/rushmoor-associates
Axis Bank	7 April 2016	Clone firm http://www.fca.org.uk/news/warnings/axis-bank-clone
Loans Today	7 April 2016	Clone firm http://www.fca.org.uk/news/warnings/loans-today-clone-cc
GFS Management Limited	5 April 2016	Not authorised http://www.fca.org.uk/news/warnings/gfs-management-limited-clone
GS Loans	4 April 2016	Clone firm http://www.fca.org.uk/news/warnings/gs-loans-clone-cc

Policy developments

FCA		PRA		
Proposed developments				
		Deadline for responses		
Consultation papers	The FCA has (on 5 April) published a consultation paper (CP 16/9) on it rates proposals for 2016/17. http://www.fca.org.uk/static/fca/documents/consultation-papers/cp16-09.pdf	27 May 2016	4 July 2016	The PRA has (on 4 April) published a consultation paper (CP 12/16) on proposed to changed to the approach and expectations of the PRA in its supervision of building societies' treasury and lending activities. http://www.bankofengland.co.uk/p

				ra/Documents/publications/cp/2016/cp1216.pdf
Guidance Consultation			2 June 2016	<p>The PRA has (on 7 April) published a consultation paper (CP 13/16) seeking feedback on proposals in relation to Solvency II remuneration requirements (and in particular the identification of key staff in Article 275 of the Commission Delegated regulation (EU) 2015/35.</p> <p>http://www.bankofengland.co.uk/pra/Documents/publications/cp/2016/cp1316.pdf</p>

Finalised Policy and guidance				
		Implementation/effective date		
Finalised guidance	<p>The FCA has (on 8 April) issued finalised guidance (FG 16/4) on the Small and Medium Sized Business (Credit Information) Regulations, which require (with permission from the relevant enterprise) designated banks to share credit information about the enterprise with credit reference agencies.</p> <p>http://www.fca.org.uk/static/documents/fg16-4.pdf</p>	1 April 2016		

Further Afield

HMT officially establishes new Office of Financial Sanctions Implementation

A new Office of Financial Sanctions Implementation (OFSI) was officially established on 31 March within HM Treasury. The Chancellor has said that OFSI will be a centre of excellence for financial sanctions and OFSI's role will be to ensure that financial sanctions are properly understood, implemented and enforced in the UK, although it is currently unclear whether it will adopt the more aggressive approach to enforcement taken by the US Office of Foreign Assets Control (OFAC). Further information can be found in our July briefing on this.

<https://www.gov.uk/government/organisations/office-of-financial-sanctions-implementation>

<https://www.gov.uk/government/news/new-body-to-support-financial-sanctions-implementation-launched>

http://www.cliffordchance.com/briefings/2015/07/uk_announcements_newofficeoffinancialsanction.html

CFTC awards over USD 10 million to whistleblower

The US Commodity and Futures Trading Commission (CFTC) awarded over USD 10m to a whistleblower who provided key information that led to a successful CFTC enforcement action. The amount of the award indicates the incentives that the CFTC wants to provide to potential future whistleblowers.

<http://www.cftc.gov/PressRoom/PressReleases/pr7351-16>

China releases 5 year plan for financial reform

China has (on 17 March) officially released its economic and social development blueprint for the period 2016-2020, including a plan to accelerate its financial reform which will see China pursue more market-driven growth and further open up its financial market. For more information, see our recent briefing on this topic.

http://www.cliffordchance.com/briefings/2016/04/china_releases_five-yearplanforfinancialreform.html

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