

This week at the UK regulators

Thirty second guide: The week in overview

In a week without major concluded enforcement action, the main developments last week were away from the FCA. The Chancellor of the Exchequer set out plans to strengthen the role of the Treasury Committee in scrutinising appointments to the position of CEO of the FCA (although only for future candidates). The Home Office and HM Treasury announced radical proposals in relation to the UK anti-money laundering and counter-terrorism financing regime.

In policy developments, the FCA announced proposed changes in relation to its enforcement procedures in respect of market abuse when the Market Abuse Regulation comes into force in July 2016 and commenced a separate consultation exercise on rules relating to the secondary annuity market.

Further afield, the Australian financial services regulator has received a significant funding boost aimed at equipping it to pursue a more interventionist approach to supervision and enforcement.

Tribunal refuses consumer credit application

The Upper Tribunal (on 22 April) has refused to allow Dr Saim Koksai (trading as Arcis Management Consultancy) to carry out the regulated activities of credit broking, debt adjusting, debt-counselling and debt administration until the reference he is pursuing has been substantively determined. The FCA issued a Decision Notice dated 22 December 2015 refusing Dr Koksai's application to vary his permissions to add those regulated activities. The Tribunal based its decision on the serious concerns identified in the Decision Notice and the lack of evidence as to the nature and scale of the credit related activities that might be carried on in the period up to the hearing of the reference and the arrangements in place to ensure compliance with the relevant regulatory requirements during that period.

<http://www.tribunals.gov.uk/financeandtax/Documents/decisions/koksai-v-fca.pdf>

Treasury Committee's scrutiny role recognised and strengthened

In a letter to the Chairman of the House of Commons Treasury Committee sent on 19 April, the Chancellor of the Exchequer has confirmed that future appointments to the role of CEO of the FCA will be subject to scrutiny by the Treasury Committee after they are announced but before they are formalised. His letter also confirms that the government will make time for these proposed appointments to be debated by the whole House of Commons if necessary and that he proposes to bring forward legislation providing for fixed renewable five year

terms for the CEO of the FCA. These proposals will not apply to Andrew Bailey, who was recently confirmed as the FCA's new CEO, but would apply to his successors.

<http://www.parliament.uk/documents/commons-committees/treasury/Correspondence/chancellor-chairman-FCA-chief-exec-appointment-190416.pdf>

FCA issues update on consumer credit authorisations

The FCA has (on 21 April) published updated key figures, as at 31 December 2015, regarding the authorisation process for consumer credit (together with underlying data). The figures track the FCA's progress in assessing and approving firms with interim permission to carry on consumer credit business. They show that 95 per cent of applicants were successful and that the majority of applications were determined within target timescales.

<http://www.fca.org.uk/static/documents/consumer-credit-authorisations-data-bulletin-supplement-april-2016.pdf>

<http://www.fca.org.uk/your-fca/documents/data-bulletin/data-bulletin-supplement-consumer-credit-data>

FCA issues Handbook Notice

The FCA has (on 22 April) published Handbook Notice 32 providing an overview and summary of the recent changes to the Handbook. It also provides feedback on consultations that will not have a separate policy statement published by the FCA.

<http://www.fca.org.uk/static/documents/handbook-notices/fca-handbook-notice-32.pdf>

FCA warnings

Name of firm	Date of warning	Details
RBS Bourse	22 April 2016	Not authorised http://www.fca.org.uk/news/warnings/rbs-bourse
Capital Trust Ventures	22 April 2016	Not authorised http://www.fca.org.uk/news/warnings/capital-trust-ventures
Andersen Consulting (UK)	22 April 2016	Not authorised http://www.fca.org.uk/news/warnings/andersen-consulting-uk
Beckett & Cromwell	22 April 2016	Not authorised http://www.fca.org.uk/news/warnings/beckett-and-cromwell
Carlson & Clarke Management Group	19 April 2016	Not authorised http://www.fca.org.uk/news/warnings/carlson-clarke
Explore Markets Limited	19 April 2016	Not authorised http://www.fca.org.uk/news/warnings/explore-markets

Policy developments

FCA		PRA	
Proposed developments			
		Deadline for responses	
Consultation papers	The FCA has (on 22 April) published a consultation paper (CP16/13) on the proposed changes to the Decision	22 May 2016	

	<p>Procedure and Penalties Manual (DEPP) and the Enforcement Guide (EG) to set out how the FCA will enforce the Market Abuse Regulation.</p> <p>http://www.fca.org.uk/static/documents/consultation-papers/cp16-13.pdf</p>			
	<p>The FCA has (on 21 April) published a consultation paper (CP16/12) on the FCA's proposed rules and guidance for the secondary annuity market (due to come into effect in April 2017).</p> <p>http://www.fca.org.uk/static/fca/documents/consultation-papers/cp16-12.pdf</p>	21 June 2016		

Finalised Policy and guidance				
		Implementation/effective date		
Policy statements			22 April 2016	<p>The PRA has (on 18 April) published a policy statement (PS 15/16) (following on from PS 11/15 released in June 2015) on changes to liquidity reporting rules.</p> <p>http://www.bankofengland.co.uk/pradocuments/publications/ps/2016/ps1516.pdf</p> <p>http://www.bankofengland.co.uk/pradocuments/publications/ps/2015/ps1115.aspx</p>

Further afield

UK government proposes important changes to anti-money laundering and counter terrorism financing regime

On 21 April, the Home Office and HM Treasury published an action plan proposing changes to the anti-money laundering (AML) and counter-terrorist finance (CTF) regime. The most important proposed changes are the removal of the Suspicious Activity Reports (SARs) consent regime and the creation of a new power to require individuals to declare their sources of wealth together with a power to seek forfeiture of assets if they fail to make such declarations. The paper also proposes that the Joint Money Laundering Intelligence Taskforce (JMLIT), a pilot initiative involving sharing of information between law enforcement agencies and ten banks, could be placed on a permanent footing and that a register of banks' particular business specialisms set up to assist with bringing relevant expertise into JMLIT.

HMT and the Home Office are also seeking views (by 2 June 2016) on proposals including in relation to data sharing between private sector organisations to tackle money laundering and terrorist financing, the creation of a new "illicit enrichment" offence and powers to designate an entity as being of money laundering concern (akin to the power under section 311 of the US PATRIOT Act) and to allow money held in bank accounts to be swiftly seized and forfeited.

The action plan has been published alongside a call for information from HMT on the effectiveness of current AML and CTF supervisory arrangements, including those administered by the FCA. HMT has invited responses to this paper by 2 June 2016.

<https://www.gov.uk/government/consultations/call-for-information-anti-money-laundering-supervisory-regime/call-for-information-anti-money-laundering-supervisory-regime>

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/517992/6-2118-Action_Plan_for_Anti-Money_Laundering_web_.pdf

Australian financial services regulator receives a funding boost

The Australian government has announced an AUD \$127.5 million reform package to strengthen the Australian Securities and Investments Commission (ASIC). The reform package seeks to equip ASIC with stronger powers and funding to enhance surveillance capabilities. It is aimed at enhancing its data analytics and surveillance capabilities, accelerating the implementation of its intervention powers and product distribution obligations, implementing a 'user pays' funding model in which financial services providers will be required to contribute funding to cover the costs of regulation and handling complaints more efficiently.

<http://asic.gov.au/about-asic/media-centre/find-a-media-release/2016-releases/16-119mr-asic-welcomes-significant-reforms/>

Contacts

Roger Best
Partner

E: roger.best
@cliffordchance.com

Helen Carty
Partner

E: helen.carty
@cliffordchance.com

Carlos Conceicao
Partner

E: carlos.conceicao
@cliffordchance.com

Dorian Drew
Partner

E: dorian.drew
@cliffordchance.com

Jeremy Kosky
Partner

E: jeremy.kosky
@cliffordchance.com

Rae Lindsay
Partner

E: rae.lindsay
@cliffordchance.com

Kelwin Nicholls
Partner

E: kelwin.nicholls
@cliffordchance.com

Martin Saunders
Partner

E: martin.saunders
@cliffordchance.com

Judith Seddon
Partner

E: judith.seddon
@cliffordchance.com

Luke Tolaini
Partner

E: luke.tolaini
@cliffordchance.com

Editors

Chris Stott
Lawyer

E: chris.stott
@cliffordchance.com

Robert Stewart
Lawyer

E: Robert.Stewart
@CliffordChance.com

This publication 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.

www.cliffordchance.com

Clifford Chance, 10 Upper Bank Street, London, E14 5JJ

© Clifford Chance 2013

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

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

Abu Dhabi ■ Amsterdam ■ Bangkok ■ Barcelona ■ Beijing ■ Brussels ■ Bucharest ■ Casablanca ■ Doha ■ Dubai ■ Düsseldorf ■ Frankfurt ■ Hong Kong ■ Istanbul ■ Kyiv ■ London ■ Luxembourg ■ Madrid ■ Milan ■ Moscow ■ Munich ■ New York ■ Paris ■ Perth ■ Prague ■ Riyadh* ■ Rome ■ São Paulo ■ Seoul ■ Shanghai ■ Singapore ■ Sydney ■ Tokyo ■ Warsaw ■ Washington, D.C.

*Clifford Chance has a co-operation agreement with Al-Jadaan & Partners Law Firm in Riyadh.