

This week at the UK regulators

Thirty second guide: The week in overview

The main enforcement development last week was the imposition of a fine of £3.2 million and restrictions on taking on new business on a bank for anti-money laundering failures. In a case providing some clues as to its expectations of those responsible for financial crime compliance under the individual accountability regimes in the UK, the FCA also imposed a financial penalty and partial prohibition on a former money laundering reporting officer.

In other developments, the Government published its responses to the Treasury Committee's recommendations following the failure of HBOS and laid before Parliament its legislative proposal in relation to reforms to the UK anti-money laundering and counter-terrorism financing framework.

Further afield, there were several cybersecurity related developments. The G7 Finance Ministers and Central Bank Governors published their fundamental elements of a cybersecurity strategy and the Hong Kong Securities and Futures Commission announced a review of the cybersecurity preparedness, compliance and resilience of brokers' internet and mobile trading systems. In the US, the Securities and Exchange Commission published details of its enforcement results in the 2016 fiscal year, showing new highs in enforcement actions and sums paid to whistleblowers.

FCA fines bank and former money-laundering reporting officer for systems and controls failings

The FCA has (on 12 October) imposed a fine of £3,250,600 and a restriction preventing it from accepting deposits from new customers for 168 days on Sonali Bank (UK) Limited ("**SBUK**"). The FCA found that SBUK breached Principle 3 (management and control) of the Principles for Businesses ("**the Principles**") between August 2010 and July 2014. Specifically, it found serious and systemic weaknesses affecting various parts of SBUK's the bank's anti-money laundering ("**AML**") control and governance structures, leading to failures to comply with operational obligations in respect of customer due diligence, the identification and treatment of politically exposed persons, transaction and customer monitoring and the making of suspicious activity reports. The action against SBUK was also based on breaches of Principle 11 (relations with regulators) of the Principles, which arose in connection with a failure by SBUK to notify the FCA promptly of a potentially significant fraud. The penalties imposed were reduced by 30 per cent to reflect the fact that SBUK agreed to settle at an early stage of the FCA's investigation.

In connected enforcement action, the FCA has fined Mr Steven Smith (SBUK's former money laundering officer) £17,900 for breaches of Principles 6 and 3 of the Statements of Principle for Approved Persons (the provisions in force at the relevant time relating to the

performance of particular functions with due skill, care and diligence) for failing to implement appropriate AML monitoring arrangements, identify serious weaknesses in operational controls or escalate AML concerns to senior management. It also imposed a prohibition on him holding financial crime related controlled or senior management functions. The financial penalty imposed on Mr Smith was reduced by 30 per cent to reflect the fact that he also agreed to settle at an early stage of the FCA's investigation.

<https://www.fca.org.uk/publication/final-notices/sonali-bank-uk-limited-2016.pdf>

<https://www.fca.org.uk/publication/final-notices/steven-smith-2016.pdf>

Government publishes response to the Treasury Committee's review of the reports into the failure of HBOS

The Government has (on 11 October) published its response to the Treasury Committee's ("TC") Review of the reports into the failure of HBOS in July 2016, which sets out the TC's recommendations following its review of the FCA and PRA's report into the failure of HBOS published in November 2015 (see This week at the UK regulators, 23 November 2015).

The Government has indicated agreement with the suggestion that independent inquires into major bank failures should occur simultaneously with disciplinary

proceedings in order that the public may be given an explanation earlier. It also agreed that future inquiries into major bank failures should be conducted independently of regulators. However, it disagreed with the idea that the circumstances where it may exercise its power to discontinue an inquiry should be set out exhaustively in statute. The Government also disagreed with the TC's recommendation that the Government must agree an inquiry's terms of reference with the Chair of the inquiry, stating that the Government should retain ultimate accountability for the scope of the inquiry.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/558696/treasury_committee_response_HBOS_PRINT.pdf

http://www.publications.parliament.uk/pa/cm201617/cmselect/cmtreasy/582/582.pdf?utm_source=582&utm_medium=module&utm_campaign=modulereports

<https://www.fca.org.uk/news/press-releases/publication-pra-and-fca-review-failure-hbos>

<https://onlineservices.cliffordchance.com/online/freeDownload.action?key=OBWlbfGnhLNomwBI%2B33QzdFhRQAhp8D%2BxrlGRel2crGqLnALtlyZexAl3n8ryFnMz3H0H4hmJ9np%0D%0A5mt12P8Wnx03DzsaBGwsIB3EVF8XihbSpJa3xHNE7tFeHpEbaelf&attachmentsize=107138>

Proposed changes to UK anti-money laundering and counter-terrorism financing laws unveiled

On 13 October, the Criminal Finances Bill received its first reading before the UK Parliament. Amongst the key changes proposed by the Bill is the proposed new offence of failing to prevent the facilitation of tax evasion (although at this stage there is no draft legislation in relation to the

much anticipated extension of the offence of corporate failure to prevent bribery to cover other forms of economic crime).

Although it stops short of proposals in a consultation paper published in April 2016 for the possible abolition of the consent regime in relation to suspicious activity reports filed under the Proceeds of Crime Act 2002, it does set forth significant measures. These include the extension of the "moratorium period" (i.e. the period within which authorities must decide whether to give consent to a proposed transaction proceeding) by 186 days in addition to the current 31 day period and the establishment on a permanent basis of new information sharing gateways already trialled by some banks. Other proposed measures include the introduction of unexplained wealth orders, which would require individuals to explain the origin of assets appearing to be disproportionate to his or her known income, and increases and amendments to the powers of enforcement authorities.

In response to points raised at the consultation stage, the UK Government has decided not to introduce a new "illicit enrichment" offence it has decided to keep under review whether to further amend the suspicious activity reporting regime and/or introduce measures similar to those which appear, for example, in the US PATRIOT Act enabling it to designate particular entities as of money laundering concern.

<http://www.publications.parliament.uk/pa/bills/cbill/2016-2017/0075/17075.pdf>

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/559957/Action_Plan_for_anti_money_laundering_and_counter-terrorist_finance_-_consultation_on_legislative_proposals.pdf

FCA warnings

Name of firm	Date of warning	Details
Brits Finance	14 October 2016	Clone firm https://www.fca.org.uk/news/warnings/brits-finance-clone
BD CTLY Limited	13 October 2016	Not authorised https://www.fca.org.uk/news/warnings/bd-ctly-limited

Baxter International	13 October 2016	Not authorised https://www.fca.org.uk/news/warnings/baxter-international
Pearson Chase / Pearson & Chase / Pearson Jacobs	13 October 2016	Not authorised https://www.fca.org.uk/news/warnings/pearson-chase-jacobs
Carlease Ltd	13 October 2016	Clone firm https://www.fca.org.uk/news/warnings/carlease-ltd-clone
Loanfactory	13 October 2016	Clone firm https://www.fca.org.uk/news/warnings/loanfactory-clone
Farnhams Consulting Group	12 October 2016	Not authorised https://www.fca.org.uk/news/warnings/farnhams-consulting-group
Federated Mutual Insurance UK	12 October 2016	Not authorised https://www.fca.org.uk/news/warnings/federated-mutual-insurance-uk
Pan Asia Pacific Mergers and Acquisitions	12 October 2016	Not authorised https://www.fca.org.uk/news/warnings/pan-asia-pacific-mergers-and-acquisitions
Flexy Finance	12 October 2016	Clone firm https://www.fca.org.uk/news/warnings/flexy-finance-clone-fca-authorized-firm
Apex UK Loan	10 October 2016	Not authorised https://www.fca.org.uk/news/warnings/apex-uk-loan
Utility Bill Solutions	10 October 2016	Not authorised https://www.fca.org.uk/news/warnings/utility-bill-solutions
Swiss Partners AG	10 October 2016	Clone firm https://www.fca.org.uk/news/warnings/swiss-partners-ag-clone

Policy developments

FCA		PRA		
Proposed developments				
		Deadline for responses		
Consultation papers			25 October 2016 12 December 2016 11 January 2017	The PRA has (on 11 October) published a consultation paper (CP36/16) on proposed changes to the PRA Rulebook. http://www.bankofengland.co.uk/p/ra/Documents/publications/cp/2016/cp3616.pdf

Finalised Policy and guidance				
		Implementation/effective date		
Feedback statements	The FCA has on (11 October) published a feedback statement (FS16/10) reporting on the themes arising from the responses to the Smarter Consumer Communications discussion paper it published in June 2015. https://www.fca.org.uk/publication/feedback/fs16-10.pdf https://www.fca.org.uk/publication/discussion/dp15-05-smarter-consumer-communications.pdf			
Policy statements	The FCA has on (11 October) published a policy statement (PS16/23) summarising the feedback received on the Smarter Consumer Communications which suggested removing ineffective disclosure requirements from the	1 February 2017	12 October 2016	The PRA has (on 11 October) published a PRA Rulebook Administration Instrument that makes non-substantive changes to the PRA Rulebook. http://www.bankofengland.co.uk/p/ra/Documents/publications/ps/2016/ps1623.pdf

	FCA Handbook. https://www.fca.org.uk/publication/policy/ps16-23.pdf			6/admin116.pdf
Finalised guidance			N/A	<p>The PRA has (on 10 October) published a supervisory statement (SS14/16) that sets out the PRA's expectations regarding the completion of the regulatory reporting requirements detailed in the Insurance Company – Reporting Part of the PRA Rulebook which apply to insurance firms that are outside the scope of Solvency II and are not friendly societies.</p> <p>http://www.bankofengland.co.uk/p/ra/Documents/publications/ss/2016/ss1416.pdf</p>

Further Afield

<https://www.sec.gov/news/pressrelease/2016-215.html>

G7 Finance Ministers and Central Bank Governors publish fundamental elements of cybersecurity in the financial sector

On 11 October, the G7 Finance Ministers and Central Bank Governors published a report setting out their view of the fundamental elements of cybersecurity in the financial sector. The non-binding, elements are aimed at private and public entities in the financial sector. The report suggests that the elements should be used as the basis for designing and implementing a cybersecurity strategy and operating framework, in light of an entity's approach to risk management, specific operational and threat landscape, role in the sector, and particular national and/or sector specific legal and regulatory requirements.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/559186/G7_Fundamental_Elements_Oct_2016.pdf

SFC commences cybersecurity review on brokers' internet and mobile trading systems

On the same theme, the Hong Kong Securities and Futures Commission ("SFC") has (on 13 October) launched a review of the cybersecurity preparedness, compliance and resilience of brokers' internet and mobile trading systems. The review follows the rise in reported instances of customer internet and mobile trading accounts becoming compromised. In the past year, there have been 16 reported incidents, involving seven different securities brokers concerning unauthorised trades totalling over US\$100 million.

<http://www.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=16PR103>

SEC announces enforcement results for the 2016 financial year

The US Securities and Exchange Commission has (on 11 October) announced its enforcement results for the 2016 fiscal year that ended 30 September 2016. The report shows new single year highs for SEC enforcement actions (868), Foreign Corrupt Practices Act-related enforcement actions (21) and money distributed to whistleblowers (US\$57 million).

<https://www.sec.gov/news/pressrelease/2016-212.html>

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