

This week at the UK regulators

Thirty second guide: The week in overview

There were no major enforcement developments last week, although the FCA imposed prohibition orders on six individuals following criminal convictions. The FCA also refused two applications to carry on consumer credit related business.

In a week also devoid of published policy developments from either the FCA or the PRA, the FCA published its response to the Competition and Markets Authority's final report on its investigation into competition in the retail banking market and provided a feedback statement on its Call for Input on regulatory barriers to social investment. In addition to publishing some minor amendments to its Handbook, it also released the latest tranche of statistics on the number of skilled persons reports commissioned in Q2 2016/17, which showed a decrease from the previous quarter.

The UK High Court provided some useful guidance as to the application of UK criminal law to the practice of spoofing in the context of an individual's appeal against extradition to the US.

Further afield the US Financial Crimes Enforcement Network issued an advisory chiming with recent developments in the UK in relation to proposed amendments to the suspicious activity reporting regime and providing guidance to financial institutions on how Bank Secrecy Act regulations apply to cyber events, cyber-enabled crime, and cyber-related information.

Enforcement and other notices

The FCA has (on 1 November 2016) issued prohibition orders banning Daniel Peter Terrence Forsyth, Adam Philip Hawkins, Scott Michael Crawley, Ross Tony Peters, Aaron Lee Petrou and Dale Robert Walker from performing any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm. In each case, the FCA has concluded that the relevant individual is not a fit and proper person to perform any function in relation to any regulated activity as his conduct has demonstrated a clear and serious lack of honesty, integrity and reputation. The individuals in question were convicted of various financial offences in 2015.

<https://www.fca.org.uk/publication/final-notices/daniel-forsyth.pdf>

<https://www.fca.org.uk/publication/final-notices/adam-philip-hawkins.pdf>

<https://www.fca.org.uk/publication/final-notices/scott-michael-crawley.pdf>

<https://www.fca.org.uk/publication/final-notices/ross-tony-peters.pdf>

<https://www.fca.org.uk/publication/final-notices/aaron-lee-petrou.pdf>

<https://www.fca.org.uk/publication/final-notices/dale-robert-walker.pdf>

The FCA has (on 2 November 2016) refused an application made by Big Green Company (Energy) Ltd ("BGC") under section 55A of the Act for Part 4A permission to carry on the regulated activities of agreeing to carry on a regulated activity and Credit Broking. BGC's application was incomplete and it failed to provide the information required by the FCA.

<https://www.fca.org.uk/publication/final-notices/big-green-company-energy-limited.pdf>

The FCA has (on 1 November 2016) refused an application by Steven Maoudis trading as Montana Debt Management for permission to carry on debt adjusting and debt-counselling activities based on concerns relating to competence and capability.

<https://www.fca.org.uk/publication/decision-notices/montana-debt-management.pdf>

FCA responds to the CMA's final report on its investigation into competition in the retail banking market

The FCA has (3 November 2016) issued a response to the Competition and Markets Authority's ("CMA") final report on its investigation into competition in the retail banking market

which was published in August 2016. The CMA's report found that the "older and larger banks [...] do not have to work hard enough to win and retain customers and it is difficult for new and smaller providers to attract customers" and subsequently outlined a package of remedies to promote more effective competition through increased consumer engagement and activity. In its response, the FCA has set out the action it intends to take as a result of the CMA's recommendations to the Authority.

<https://www.fca.org.uk/publication/corporate/response-cma-final-report-competition-retail-banking-market.pdf>

FCA reports back on regulatory barriers to social investments

The FCA has (on 1 November 2016) published a feedback statement setting out the responses the FCA received to its Call for Input on regulatory barriers to social investments, published in December 2015. The statement covers both written responses and the feedback received from a series of workshop events. The Call for Input asked whether there are any barriers in the FCA rules which are holding back the development of the social investment market.

<https://www.fca.org.uk/publication/feedback/fs16-11.pdf>

FCA publishes number of skilled persons reports commissioned in Q2 2016/17

The FCA has (on 1 November 2016) published details of the number of skilled persons reports commissioned in Q2 2016/17. The report shows that a total of nine reports were commissioned in this quarter, down from a total of 17

commissioned during the previous quarter.

<https://www.fca.org.uk/publication/data/skilled-persons-q2-16-17.pdf>

Guidance from the High Court on spoofing as a criminal offence

The High Court has (on 3 November 2016) handed down its judgment in the extradition proceedings between Mr Navinder Sarao and the US Government. In doing so, the court has provided useful, if not unexpected, guidance as to the application of UK criminal law to the practice of spoofing. For further details, see our Clifford Chance briefing.

https://www.cliffordchance.com/briefings/2016/11/guidance_from_thehighcourtonspoofingas.html

FCA publishes Handbook Notice

The FCA has (on 4 November 2016) published a notice setting out changes to the FCA Handbook. In addition to minor administrative changes, the changes to the Handbook include an amendment to remove an audit requirement on some debt management firms (SUP 3.1), minor updates to implement the new EU Non-Financial Reporting Directive (2014/95/EU) (Glossary; DTR 1B, 7.2 and TP 1); and the creation of rule that will require non ring-fenced bodies to provide consumers with information to help them understand the implications of banking with these bodies (Glossary; BCOBS 1.1; BCOBS 4.3).

<https://www.fca.org.uk/publication/handbook/handbook-notice-38.pdf>

FCA warnings

Name of firm	Date of warning	Details
CTOption	1 November 2016	Not authorised https://www.fca.org.uk/news/warnings/ctoption
My Money Solutions	1 November 2016	Not authorised https://www.fca.org.uk/news/warnings/my-money-solutions

UK Fast Finance	31 October 2016	Clone firm https://www.fca.org.uk/news/warnings/uk-fast-finance-clone
UK Unsecured Finance	31 October 2016	Clone firm https://www.fca.org.uk/news/warnings/uk-unsecured-finance-clone

Further Afield

US Financial Crimes Enforcement Network issues advisory on Bank Secrecy Act

As the Criminal Finances Bill continues its journey through the UK Parliament (see our recent Clifford Chance briefing), in the US the Financial Crimes Enforcement Network has (on 25 October 2016) issued an advisory providing guidance to financial institutions on similar themes relating to when and how institutions should report suspected money laundering. Specifically, the advisory details how Bank Secrecy Act ("BSA") regulations apply to cyber events, cyber-enabled crime, and cyber-related information, focusing on Suspicious Activity Reports ("SARs") submissions for both cyber-events and cyber-related information. The advisory, which resonates in some respects with the recent proposals advanced by the UK Government in relation to SARs in the UK, provides guidance with respect to: (i) SAR reporting in connection with cyber-enabled crime and cyber events; (ii) inclusion of relevant cyber-related information in SARs; (iii) encouraging collaboration between in-house cybersecurity units and AML units; and (iv) sharing cyber-related information among financial institutions to combat money laundering, terrorism financing, and cyber-enabled crime. The advisory also provides SAR-filing related guidance in the context of cyber events. For full details on the contents of the advisory, see our Clifford Chance briefing.

<https://onlineservices.cliffordchance.com/online/freeDownload.action?key=OBWlbFgNhLNomwBl%2B33QzdFhRQAhp8D%2BxrlGRel2crGqLnALtlyZe2mCRSeCwwjKOTQBZOd3TLp%0D%0A5mt12P8Wnx03DzsaBGwsIB3EVF8XihbSpJa3xHNE7tFeHpEbaelf&attachmentsize=102630>

https://www.cliffordchance.com/briefings/2016/11/aml_and_cybersecurityfincensadvisory.html

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