

COMPLIANCE UPDATER

Regulatory and compliance news in brief

Issue: June 2020

FCA to bring test case on business interruption wordings.

The UK's Financial Conduct Authority (FCA) is taking a test case to the High Court to assess whether seventeen disputed business interruption insurance policy wordings should pay out for the disruption caused by Covid-19. The hope is that clarity will be provided by a decision expected in late July. The insurers include Hiscox, Royal & Sun Alliance and Zurich.

HSBC and StanChart facing difficulties over supporting Beijing security law.

HSBC and Standard Chartered are trying to navigate the difficulty of keeping a strong presence in Hong Kong (an important source of profit) whilst satisfying investors in the UK and elsewhere with their stance over China's imposition of new security laws to suppress political protests in the territory. The two banks carefully worded their backing of the new measures, but face criticism over whether they are meeting their corporate social responsibilities.

Barclays facing latest battle over crisis fundraising.

After the failure of the Serious Fraud Office case against three former Barclays executives over its fundraising from Qatar during the financial crisis, Barclays now faces another case about its Abu Dhabi financing. Amanda Staveley's PCP Capital put together a parallel raising of funds from Abu Dhabi and is alleging that it would not have gone ahead had it been aware of the various sweetener side deals provided to the Qataris.

Simon Property Group claims material adverse change to drop \$3.6bn deal.

Simon Property Group, the biggest shopping mall owner in the US, is trying to walk away from a \$3.6bn all-cash deal to buy smaller rival Taubman Centers. It is claiming that Taubman failed to rein in expenditure and take other steps to respond to the coronavirus pandemic. This resulted in Taubman being disproportionately hit by the outbreak, constituting a material adverse change.

FCA hits Lloyds with £64m fine.

Lloyds Banking Group was fined £64m by the UK's FCA for failing to support customers in mortgage arrears. The failings, between 2011 and 2015, treated some customers unfairly including vulnerable customers. The FCA concluded Lloyds had breached two of its principles for businesses – fair treatment of customers and responsible management control.

Commerzbank fined £38m for AML deficiencies.

Commerzbank's London branch was fined £38m by the UK's FCA for deficiencies in its anti-money laundering procedures over the five years between 2012 and 2017. Amongst the deficiencies were a failure to conduct timely due diligence on nearly two-thousand clients and longstanding weaknesses in the automated AML monitoring system.

DRC president's chief of staff jailed for embezzlement.

Democratic Republic of Congo's high court sentenced the president's chief of staff to twenty-years of hard labour for embezzling \$48m from public projects. The case has already seen the original trial judge die of something other than natural causes that has resulted in a murder investigation.

LSE Refinitiv deal to face Brussels antitrust investigation.

The \$27bn takeover of data provider Refinitiv by the London Stock Exchange Group is facing a full antitrust investigation by the EU's competition watchdog. Amongst the concerns is the worry that Refinitiv's rivals could face slower or inferior service in relation to LSE data.

FCA appoints new Chief Executive.

The UK's FCA revealed that its new Chief Executive will be Nikhil Rathi. He will take control from current interim CEO Christopher Woolard. Mr Rathi previously headed the London Stock Exchange's UK arm.

Amigo Loans struggles with complaints.

Subprime lender Amigo Loans warned that it is struggling to deal with a rising tide of complaints. The scale of complaints means Amigo has delayed publication of its full year results. Amigo dominates the market for guarantor loans in the UK.

Ex-HSBC forex trader looking for US supreme court review.

Former HSBC forex chief Mark Johnson has asked for a US Supreme Court review into his criminal conviction and two-year prison sentence. Mr Johnson was found guilty in 2007 of defrauding Cairn Energy over converting \$3.5bn into sterling. He has always protested his innocence.

Wirecard collapses into insolvency.

What appears to be a multi-year fraud has led to the arrest of Wirecard's former Chief Executive and the insolvency of the previously heralded European fintech champion and key DAX constituent. The fraud involved a €1.9bn cash balance that is thought to have never existed and appears to have been misrepresented to auditors using forged documentary evidence.

FSB says ‘too big to fail’ reforms are working.

The Financial Stability Board (FSB) reported that reforms aimed at preventing banks becoming ‘too big to fail’ are beginning to work. The report stated that global systemically important banks are now better capitalised and systemic measures of risk are falling.

PE and hedge fund managers rebuked by US SEC.

The US Securities and Exchange Commission (SEC) issued a ‘risk alert’ that rebuked private equity and hedge fund managers for overcharging investors and secretly favouring their high paying clients over others. The SEC repeated a warning that managers will face fines and enforcement action unless procedures and policies resolve the problems.

AUTHOR

Martin Mitchell
Director, Training Services
MMitchell@cclacademy.com

New free resource – CCL Academy’s YouTube Channel

Have you subscribed to our YouTube channel yet? Get access to our regular video content including:

- News updates and key lessons from the stories covered in the Compliance Updater and the Concerning Conduct series
- Compliance Risk: COVID-19 series
- Training presentations
- Virtual event presentations

[Click here to visit and subscribe to our YouTube channel](#)