

CONCERNING CONDUCT: QUARTERLY CASES

Recent cases concerning culture and conduct **ISSUE 5 • Q4 2020**

Vatican invested donations in CDSs.

Despite Pope Francis describing credit default swaps as “encouraging the growth of a finance of chance and of gambling on the failure of others, which is unacceptable from an ethical point of view”, the Vatican’s portfolio derived from donations held structured notes containing CDSs on car rental company Hertz. There was no evidence that the Pope was aware of the investment.

Concerns re tax bills on staff working from holiday villas.

Banks in the City of London are requiring staff to return to the UK instead of waiting out the coronavirus pandemic in their Mediterranean holiday villas due to the possibility of hefty tax bills. Employees could trigger a ‘permanent establishment’ abroad that will expose both employer and employee to tax in the host country.

Cyprus suspends ‘golden passports’ scheme after media sting.

Cyprus suspended its seven-year-old “citizen by investment” programme on 1st November after an Al Jazeera undercover investigation. Al Jazeera filmed the speaker of the Cyprus parliament and another MP offering to help a fictitious Chinese investor who had been convicted of money laundering get the “golden passport”. The scheme required applicants to pay at least €2m for a property on the island.

Retirement scheme freezes new investments with Apollo over Epstein links.

The Pennsylvania Public School Employees’ Retirement Scheme announced it was freezing new investment with Apollo Global Management over concerns surrounding Apollo founder Leon Black’s relationship with late convicted sex-offender Jeffrey Epstein. Mr Black subsequently revealed that he paid Mr Epstein “millions of dollars annually” between 2012 and 2017 for tax planning and other financial services. He said, “any suggestion of connection to Epstein’s reprehensible conduct is categorically untrue”.

Morgan Stanley commodities traders lose job over WhatsApp.

Two senior commodities traders at Morgan Stanley lost their jobs over unauthorised use of social media platforms including WhatsApp.

Unilever became the latest company to address burnout of staff working from home.

Consumer goods giant Unilever gave all of its staff an additional day off – the Global Day of Thanks – for their months of pandemic-induced productivity. Close to ninety per-cent of staff are working the same, or more, from home and Unilever followed similar efforts to avoid burnout from Google.

Charter for Black Talent in Finance and Professions launched.

A charter to push for greater representation of black people in senior positions in financial and professional services firms has seen substantial sign-up from City of London firms including PwC, KPMG, Allen & Overy, Herbert Smith Freehills and Freshfield Bruckhaus Deringer.

Outspoken Jack Ma results in \$37bn Ant IPO suppression.

The last-minute suspension of the \$37bn IPO of Ant Group planned for Shanghai and Hong Kong appears to be the result of founder Jack Ma's criticism of China's state-owned banks. After saying the big banks had a 'pawnshop mentality' to justify Ant's important role, Mr Ma was interviewed by the People's Bank of China and other regulators. The result was the suspension of the IPO due to "material matters relating to the regulatory interview". Subsequent clarification from Chinese government officials said the suspension was in order to "better maintain the stability of the capital markets and to protect investors' interests".

Crispin Odey steps down from eponymous firm.

Crispin Odey has stepped down from managing Odey Asset Management after almost 20 years. The news comes as Mr Odey faces an allegation that he put on a dressing gown before "launching himself" at a female investment banker at his home in 1998. He maintains the allegation is untrue and a trial is set for February 2021.

Six-year prison term for Chappell.

Dominic Chappell, famous for purchasing BHS for £1, was jailed for six years for tax evasion. He was found guilty of failing to pay £584,000 in tax whilst funding a lavish lifestyle including buying a Bentley, a yacht, a holiday in the Bahamas and several guns.

Goldman increases share of female and minorities partners.

Goldman Sachs named sixty new partners for 2020 including thirty-two white men, a fifty-three per-cent share and the smallest representation ever. Women made up twenty-seven per-cent, beating the previous record of twenty-six per-cent in 2018. Seventeen per-cent of new partners were Asian, seven per-cent were black and five per-cent were Hispanic or Latino.

Pfizer boss sells stock just after Covid vaccine announcement.

Pfizer Chief Executive Albert Bourla sold \$5.6m of stock just after a seven per-cent rise driven by the announcement of positive Covid vaccine trials on the joint initiative between Pfizer and BioNTech. The sale was pre-programmed, and therefore acceptable under SEC rules, but raised eyebrows as it amounted to sixty-two per-cent of Mr Bourla's entire holding.

Australian stock exchange hit by software glitch.

On the day it launched a new trading system, the Australian stock exchange suffered a glitch after just twenty minutes and was forced to shut for the whole day. "The outage falls short of the high standards we set ourselves and the standards others expect of us" said the Chief Executive.

Transparency and conflict concerns over £17bn of Covid contracts.

The UK's public spending watchdog (the National Audit Office) criticised the government's Cabinet Office and Department of Health and Social Care for failures to explain why companies with government connections or poor due diligence standards were awarded contracts without tender that totalled £17.3bn to urgently tackle the coronavirus pandemic. Lack of transparency, errors and potential conflicts of interest were all mentioned.

BoE governor backs looser regulations to quicken recovery.

The governor of the Bank of England, Andrew Bailey, signalled his support for a loosening of regulations to encourage pension funds to boost the "productive investment" needed for a swift recovery from the coronavirus pandemic. In particular, the BoE is examining whether defined contribution pension schemes could allocate more to less liquid investments to assist.

Wirecard former Chief refuses to answer questions.

The former Chief Executive of collapsed payments company Wirecard appeared in front of a parliamentary committee in Germany. He read a statement that expressed surprise at the blame being placed on the authorities and supervisory bodies for not uncovering the fraud and embezzlement and pleaded his innocence. He then refused to answer any questions, even basic ones such as the subject of his PhD and if he had a daughter.

Compare the Market fined £17.9m.

Price comparison website Compare the Market was fined £17.9m by the Competition and Markets Authority for preventing home insurers from offering better prices on rival sites.

UK prime minister’s ethics adviser quits after Patel retention.

The UK prime minister Boris Johnson decided to retain Priti Patel as home secretary despite a report that concluded she had breached the ministerial code that requires civil servants to be treated with “consideration and respect”. Mr Johnson’s decision caused his Ethics Adviser and the author of the report to step down.

PC sacked for scanning carrots instead of doughnuts.

A police constable from Cambridgeshire, UK was sacked for gross misconduct after trying to buy a £9.95 box of doughnuts for the price of some carrots. The PC had four items in his basket at Tesco – a tray of doughnuts, a sandwich, a drink, and some carrots. He scanned the 7p carrots twice and failed to scan the £9.95 doughnuts. The PC denied the charge saying it was an honest mistake. A disciplinary panel ruled his explanation lacked credibility and he was dismissed for breaching professional standards of honesty and integrity.

Apollo false expenses claims revealed.

A US judge ordered a former partner at private equity firm Apollo Global Management to pay a \$240,000 civil fine. The partner had submitted false expense claims committing 32 violations of the Investment Advisors Act. The claims – including for a friend’s bachelor party and a trip to the Super Bowl – were then allocated to Apollo’s funds. Apollo has subsequently “fully and promptly” repaid the money to the funds.

Former Chair of Wirecard’s risk and compliance committee quits easyJet board.

A Non-executive Director at airline easyJet resigned. She had been a member of collapsed fintech firm Wirecard’s supervisory board, chairing its risk and compliance committee. Wirecard’s insolvency came after a multiyear fraud and a €1.9bn hole in its accounts.

GE CEO bonus criticism.

S&P 500 constituent General Electric faced criticism after it rewrote its CEO’s compensation plan facilitating a \$46.5m bonus. In August 2020, GE revisited the plan that originally only triggered a pay out if the share price hit \$19 or more to \$10 or more. Covid-19 vaccine hopes in November led to a rally and a share price above \$10, locking on a bonus of at least \$46.5m.

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