

COMPLIANCE UPDATER

Regulatory and compliance news in brief

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The formalisation of Brexit.

Brexit became a reality at 11pm on 31st December 2020 with a trade deal between the EU and the UK that focused on goods rather than services. 'Passporting' of financial services between the UK and EEA states no longer applies, although the UK's FCA implemented a temporary permissions regime to enable EEA-based firms to continue marketing in the UK for a limited period.

Wirecard Bank's inappropriate corporate governance.

The decision making and governance of Wirecard Bank, part of the collapsed German payment processor, was interfered with by Jan Marsalek, the fugitive former COO of parent Wirecard. It appears that Mr Marsalek had no formal role at Wirecard Bank but granted the deferral of an €11.3m loan to a Singapore-based company and Wirecard business partner.

South Korea threatens jail for short sellers.

South Korea has already banned short selling in response to Covid until at least the end of March 2021 and its regulator, the Financial Services Commission, plans to increase punishments for naked short sellers that flout the ban. The changes mean either a financial penalty of up to five times the profit made, or at least a year in jail. The new rules will take effect three months after cabinet approval.

Robinhood accused of treating trading 'like a game'.

The Massachusetts securities regulator accused online trading app Robinhood of lacking proper controls to safeguard inexperienced investors. "Treating this like a game and luring young and inexperienced customers to make more and more trades is not only unethical but also falls short of the standards we require in Massachusetts" said the regulator's secretary. A case was singled out where a customer with no investment experience had made twelve-thousand, seven-hundred trades in six months. A day later Robinhood agreed to pay \$65m to settle unrelated charges from US securities regulators that it failed to provide its customers with the best prices for trades on its platform.

Credit Suisse charged in Switzerland over anti-money laundering failings.

Switzerland's federal prosecutor filed criminal charges against Credit Suisse for facilitating money laundering 'on a grand scale' by former Bulgarian clients. The allegations say a senior relationship manager systematically ignored or sidestepped money laundering reporting requirements between 2004 and 2008, processing more than SFr140m (\$158m) of transactions earned from smuggling cocaine into Europe and other illegal activities.

Thirty-seven FCA conduct investigations under the SM&CR in the last five years.

A freedom of information request revealed that the FCA has opened just thirty-seven investigations under the Senior Managers and Certification Regime (SM&CR) in the past five years. Only five of these related to 'non-financial' misconduct. Regulatory action has followed in three of the 'non-financial' misconduct cases and in two other cases – the £640k fine imposed on Jes Staley, Barclays Chief Executive, over the treatment of a whistleblower and a £78k penalty for insurer Stuart Forsyth over tax-efficient payments made to his wife.

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