COMPLIANCE UPDATER

Regulatory and compliance news in brief | Issue: March 2019

HMRC accused of breaching FCA regulations.

The UK tax authority – Her Majesty's Revenue and Customs (HMRC) – has been accused of breaching the regulations of the Financial Conduct Authority (FCA). In letters to self-employed workers who owe tax as a result of using inappropriate loans to disguise remuneration and avoid income tax, the HMRC has said they need to use "every means to meet their obligations" including "raising a loan or selling other assets". Debt advice is an FCA regulated activity that can only be provided by FCA authorised firms. HMRC is not FCA regulated.

MPs demand an end to secret company ownership in the UK crown dependencies.

UK crown dependencies Jersey, Guernsey and the Isle of Man are facing calls from MPs to reveal ownership of registered companies. The suggestion is that parties owning more than 25% of any company registered in the crown dependencies would be made public. The MPs consider public registers to be vital in the fight against money laundering and tax evasion.

Increase in whistleblowing to the UK's FCA.

A freedom of information response showed that whistleblowing complaints to the UK's Financial Conduct Authority reached 1,755 in 2018 compared to 1,420 in 2017. 246 of the complaints related to treating customers fairly, up from 74 in the preceding year. The increases are thought to be due to the tightening of market abuse regulation and the heightened personal accountability as a result of the Senior Managers and Certification Regime (SM&CR).

Britain's biggest estate agent fined for anti-money laundering failures.

Countrywide, the UK's biggest estate agency group that includes brands like Hamptons and Bairstow Eves, was fined £215,000 by HM Revenue and Customs for anti-money laundering failures. The failures included a lack of due diligence and record keeping.

"Manufactured default" of CDS under the spotlight.

The International Swaps and Derivatives Association (ISDA) is proposing to limit what it terms "narrowly tailored credit events" to reduce the scope for manipulating the credit default swaps (CDSs) market. ISDA is trying to reduce the possibility of "manufactured defaults" – where hedge funds exploit loopholes by offering sweeteners to companies to default so that the hedge funds can generate a pay out on the CDS.

FCA fines Carphone Warehouse for “spin selling” insurance.

The UK’s Financial Conduct Authority fined Carphone Warehouse £29.1m for mis-selling its Geek Squad insurance and technical support product line. The FCA found the company had trained staff in “spin selling” – urging customers to buy a product regardless of need and training more in countering customer objections than assessing whether the product was suitable.

Regulators pushing for further changes to the board at Metro Bank.

Metro Bank, the UK challenger bank that has recently admitted to a major miscalculation in its loan book that left it with a substantially weaker capital position, recently announced a change to its board of directors. Ben Gunn, previously the Senior Independent Director on the board, is set to become the Deputy Chairman. The UK regulators, particularly the Financial Conduct Authority, are understood to be looking for ways to thwart the move as Mr Gunn has already breached the nine-year maximum board tenure recommended under the corporate governance code.

SFO investigating London Capital & Finance.

The UK’s Serious Fraud Office (SFO) opened an investigation into London Capital & Finance (LCF). LCF went into administration in January 2019 after the Financial Conduct Authority found its marketing was “misleading, not fair and unclear”. LCF was selling mini-bonds to make loans to small companies whilst marketing these as a “fixed rate ISA” to retail investors promising up to 8% returns.

Misreporting results in £27.6m fine for UBS.

Swiss banking giant UBS was fined £27.6m by the UK’s Financial Conduct Authority for misreporting transactions. The bank failed to ensure complete and accurate reporting to the FCA on 87m transactions – impacting the regulator’s ability to spot market abuse, insider dealing and other forms of market manipulation. The problem stemmed from inadequate systems and controls and the fine would have been nearer £40m but for a 30% discount because of management co-operation, self-reporting and swiftly agreeing to the penalty.

Whistleblower accuses PwC over trip in client’s private jet.

PwC was accused of serious failings in independence when a whistleblower revealed that an audit team accepted a trip on a client’s private jet. The audit team at PwC’s San Jose office agreed to a flight on client Micron’s private jet so that they would not miss an ‘internal firm party’ according to the whistleblower.

Investment managers' plans to bring tarnished directors to task.

Investment managers are set to be more active in pressing for the removal of tarnished directors at scandal ridden companies. The likes of Aviva Investors plan to vote against the re-appointment of audit chairs at companies including Carillion, Interserve, Patisserie Valerie and Metro Bank – all of which have suffered from governance failings.

Brexit uncertainty continues to hit big banks in London.

Newspapers revealed the impact continuing Brexit uncertainty is having on big banks in London. JPMorgan has sent new contracts to hundreds of staff telling them they will need to relocate to another European centre if Britain leaves with no deal. RBS has already moved around 150 staff to Amsterdam and Barclays' Dublin operation has grown by a similar number.

Three Nordic banks now subject to money laundering probes.

The money laundering scandal that first engulfed Denmark's Danske Bank has now widened to Norway's Nordea and Sweden's Swedbank. Swedbank is subject to both a local investigation and inquiries from New York State's Department of Financial Services. It is reported to have handled €135bn from high risk non-residents, mostly Russians via its Estonian unit in the last 10 years.

UK's FCA fines Goldman £34.3m for transaction reporting failures.

The UK's Financial Conduct Authority (FA) fined Goldman Sachs for 'serious and prolonged' failures in transaction reporting. Goldman apparently failed to report 220.2m transactions accurately and in a timely fashion over almost ten years to March 2017.

FCA bans binary options.

The UK's Financial Conduct Authority (FCA) has decided to permanently ban the sale of binary options to retail customers from 2nd April. Binary options involve predicting whether an event will happen or not, such as whether a share price will increase, and the outcome is either 'yes' or 'no'. They have been described as "gambling products dressed up as financial instruments".

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