

COMPLIANCE UPDATER

Regulatory and compliance news in brief

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South Korean politicians back short selling ban extension.

South Korea banned short selling for a year until mid-March 2021 due to the coronavirus pandemic. Now politicians are requesting that the regulator extends the ban for at least a further three months under pressure from retail investors. However, the ban has made some institutional investors nervous as it prevents them from hedging their positions.

Bezos is latest to show disregard of corporate governance standards.

CEO at Amazon, Jeff Bezos, is now the executive chair. Corporate governance standards recommend an independent chair. Mr Bezos is not alone – Facebook and Tencent do not have independent chairs and the roles are combined at Berkshire Hathaway, Alibaba and JPMorgan Chase.

Bank of England governor criticises European Commission.

Bank of England governor Andrew Bailey criticised the European Commission over its apparent unwillingness to provide “equivalence” status to the UK financial services sector’s regulation. Europe is requiring clarification of how the UK intends to amend or alter its rules going forward before granting equivalence. “This is a standard that the EU holds no other country to and would, I suspect, not agree to be held to itself” said Mr Bailey.

Credit Suisse finally resolves crisis legal case.

Credit Suisse agreed a settlement of \$600m over its role in selling residential mortgage-backed securities in the period leading up to the financial crisis of 2007/8. The settlement, with financial services group MBIA, was less than Credit Suisse’s previous guidance of \$680m.

UK’s PRA prepares to break from EU capital rule.

The UK’s Prudential Regulation Authority (PRA) is looking likely to break from EU capital rules for the first time. The EU European Banking Authority allows banks to count investment in software towards their core capital levels. The PRA’s view is that it found “no credible evidence the software assets can absorb losses effectively in stress”.

EU clears the way for data flows to continue post Brexit.

A decision by the European Commission on data protection recognised that the UK laws are “adequate”. It will be reviewed every four years but will come as a relief to businesses operating internationally. The decision now faces scrutiny by the European Data Protection Board before implementation, but the body does not have the power to block the move.

Are index providers data publishers or investment advisors?

An academic study from Virginia University argues that the SEC should regulate index providers as investment advisors rather than data publishers. Index based passive investing has become hugely important and the study believes those producing narrower, focused indices used by “smart beta” trackers should be regulated as investment advisors and held to a fiduciary duty.

Trump’s private banker leaves Deutsche Bank amid allegations surrounding a real estate deal.

Rosemary Vrablic, Donald Trump’s private banker, left Deutsche Bank in December 2020. This was four months after Deutsche launched an investigation into a 2013 real estate deal involving Mr Trump’s son-in-law Jared Kushner. It appears Ms Vrablic and one of her colleagues purchased a \$1.5m condo in Park Avenue from a company part-owned by Mr Kushner. The purchase was not disclosed to Deutsche at the time in an apparent breach of the bank’s policies.

Credit Suisse banker stole from clients and the bank ignored warning signs.

A private banker at Credit Suisse in Switzerland, Patrice Lescaudron, stole from wealthy clients for more than a decade. Mr Lescaudron committed suicide in 2019 after being criminally convicted. A legal report commissioned by Swiss regulator Finma suggests that the bank ignored Mr Lescaudron’s “disregard of internal directives and guidelines” and that these were “known to the bank since June 2011”.

Woodford makes premature announcement of his new business venture.

Neil Woodford, the stock picker behind the collapsed Woodford Investment Management that saw UK investors suffer billions of pounds of losses in 2019, announced that he plans to set up a new firm based in Jersey. However, it appears the announcement was made in advance of any application to the Jersey Financial Services Commission. The island’s regulator expressed its disappointment that the announcement did not include the statement “subject to regulatory approval”.

Staveley loses court battle with Barclays.

Amanda Staveley's PCP Capital Partners lost its case against Barclays over the 2008 emergency fundraising for the bank. PCP was trying to put together a consortium including Abu Dhabi's Sheikh Mansour that fell apart when it discovered it was not getting the same deal as Barclays gave to Qatar. PCP alleged that Barclays had deceived it by assuring Staveley that she was getting the same deal as the Qataris. The judge ruled that Barclays had been guilty of "serious deceit" but decided to dismiss PCP's claim and award it no damages because it had not proved that it would have obtained the necessary debt funding to do the deal.

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