

COMPLIANCE UPDATER

Regulatory and compliance news in brief

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ESMA criticises Germany's BaFin over Wirecard.

The EU's European Securities and Markets Authority (ESMA) criticised Germany's financial regulator BaFin over its failure to act on red flags concerning Wirecard in advance of the payment processor's collapse. The FT had raised questions over Wirecard's accounting for years.

Barclays forced to repay millions on timeshares.

The UK's Financial Conduct Authority (FCA) ordered Barclays to hand back interest charged on loans issued between April 2014 and April 2016 by timeshare operator Azure Services. Barclays underwrote financing agreements that were brokered by Azure Services which was not authorised by the FCA until 25th April 2016. The repaid and waived interest is estimated at £26m and Barclays will also appoint an independent assessor to review the affordability of the timeshare loans. If found to be unaffordable, Barclays will be required to cancel the loan and reimburse the customer.

EY to be sued over NMC Health audit failure.

The administrators to collapsed former FTSE 100 constituent NMC Health are planning to sue auditors EY for negligently signing off the group's accounts. NMC collapsed with more than \$4bn hidden in a large-scale fraud that appears to have started at IPO in 2012.

Vanguard sent out inaccurate data to clients on money market yields.

Vanguard, the world's second largest asset manager, admitted sending clients inaccurate estimated yields on its money market funds. The data applied to eight funds with combined assets of \$390bn. It appears that Vanguard's systems failed to recognise the changing yields over the period between October 2019 and September 2020.

Hong Kong privately clears banks to apply US sanctions.

Hong Kong's Securities and Futures Commission privately assured global banks that they are unlikely to be breaking the local national security law by applying US sanctions. The Chinese-driven new national security law threatens harsh penalties for those that 'collude' with foreign governments to impose sanctions on Hong Kong. The US sanctions are a response to the new law and require financial groups to cut ties with Hong Kong and Chinese officials involved in the legislation.

Julius Baer sets aside \$79.7m to settle with the US DoJ over Fifa.

Swiss private bank Julius Baer has taken a \$79.7m provision to settle the US Department of Justice (DoJ) investigation into its role in the corruption at Fifa, football's global governing body. One of Julius Baer's former bankers pleaded guilty in New York in 2017 to facilitating payments from a sports marketing company to Fifa officials. The settlement also includes a three-year deferred prosecution agreement.

FCA issues warning notices to Carillion and its previous executives.

The UK's FCA issued warning notices to Carillion and some of its former directors over rule breaches. Carillion, an outsource provider heavily involved in government contracts, collapsed three years ago under £7bn of liabilities. The rule breaches include 'false or misleading signals as to the value of its shares', 'failing to take reasonable care and ensure that its announcements were not misleading, false or deceptive' and 'failing to take reasonable steps to establish and maintain adequate procedures, systems and controls'.

Ex-Wells Fargo boss settles with SEC for \$2.5m.

John Stumpf, the former Chief Executive of Wells Fargo, agreed to pay \$2.5m to settle SEC charges that he misled investors regarding a fake accounts scandal in 2016. The scandal saw the bank open millions of unauthorised or fraudulent banks accounts for customers to inflate the success of its 'cross-sell' strategy. Mr Stumpf had signed off investor filings 'he should have known were misleading'. The bank has already paid \$5bn to settle the issues.

BoE governor backs looser regulations to quicken recovery.

The governor of the Bank of England (BoE), 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 economic damage caused by the coronavirus pandemic. In particular, the BoE is examining whether defined contribution pension schemes could allocate more to less liquid investments to assist and hasten the recovery.

Record UK SAR submissions, but quality is questioned.

The UK's National Crime Agency released the number of suspicious activity reports (SARs) for the year to March 2020 – five-hundred and seventy-thousand and eighty-five, up twenty per cent on the year before. The agency feels reform is necessary, especially to deal with the so-called 'defensive reporting' to avoid any subsequent criminal liability. 'Defence against money laundering' requests (formerly known as 'consent' requests) saw an eighty-one per cent increase.

Investors hire convicted trader to help their case.

Investors suing banks for alleged forex manipulation have hired a convicted ex-trader from BNP Paribas to help them make their case. Allianz, Pimco and several other investors are suing eight banks including Barclays, Citigroup and HSBC in a multi-million-dollar case.

ESMA stays tough on post-Brexit rules.

The European Securities and Markets Authority (ESMA) clarified that EU banks operating in London will continue to be subject to Brussels' regulations when the Brexit transition ends on 1st January 2021. UK regulators had hoped that UK rules could be accepted, especially those surrounding derivatives trading that is centred on London.

EY faces pressure to tell all on Wirecard audits.

Germany's parliament is pushing for EY partners to provide detailed evidence of a decade of auditing collapsed payment processor Wirecard. Wirecard's executive board has released EY from its duty of confidentiality but EY remains concerned about secrecy breaches.

Goldman chooses Paris for Sigma X post-Brexit.

Goldman Sachs decided to create an additional base for its European equities' private marketplace Sigma X in Paris. Sigma X will retain its London presence, but Paris will allow it to reach all EU customers after Brexit on 1st January 2021.

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