

Update

Weekly Financial Services Regulatory Update

Week to 11.05.12

This weekly update from Clyde & Co's Financial Services Regulatory Team summarises new developments as reported by the FSA, the UKLA, the Upper Tribunal, the Financial Ombudsman Service and the London Stock Exchange over the past week, with links to the full documents where these are available.

We hope that you will find this update useful. If you have any queries about any of the information in this update or financial services regulatory matters generally, please contact **James Cooper** (020 7876 6388) or **Abigail Potts** (020 7876 6544).

If you have any comments on the content or format of the update or if you no longer wish to receive it, or have a colleague who would like to receive it, please email financial.services@clydeco.com.

Consultation papers:

No new developments this week.

Discussion papers:

No new developments this week.

Policy statements:

No new developments this week.

Press releases:

11 May: FSA fines broker for insurance fraud. The FSA has fined and banned Donald Morgan, a broker and partner in Donald Morgan Insurance Services, £335,204 for insurance fraud. His wife, Janet Morgan, the other partner in the firm has also been publically censured and banned from carrying out any regulated financial services activity. The FSA discovered during an investigation that Mr Morgan was

holding onto insurance premiums that were supposed to be paid into a broker network and falsified monthly reports. Mr Morgan reported his own misconduct to the FSA and cooperated fully with the FSA's investigation. The fine imposed reflects this cooperation and includes a 30% discount for early settlement.

<http://www.fsa.gov.uk/library/communication/pr/2012/054.shtml>

10 May: FSA fines Martin Currie £3.5 million for failing to manage a conflict of interest between clients.

The FSA has imposed its largest ever fine in a conflict of interest case upon Martin Currie (Martin Currie Investment Limited and Martin Currie Inc collectively). The £3.5 million fine was imposed because Martin Currie caused one client to enter into a transaction which rescued another client from serious liquidity concerns. The investing party suffered severe losses as the investment halved in value over 2 years. The SEC has taken its own enforcement action against Martin Currie for similar failings, imposing a penalty of US\$8.3 million on the firm.

<http://www.fsa.gov.uk/library/communication/pr/2012/053.shtml>

10 May: FSA publishes Recovery and Resolution Plan update. The FSA has published a feedback statement (FS12/1) to ensure that firms are on track to develop appropriate recovery plans and resolution packs. The statement outlines the FSA's interim expectations of firms until final rules are published in the autumn. The FSA has specified that firms' recovery plans should contain a sufficient number of credible options to cope with stress in a variety of scenarios and that firms' resolution packs, which will be provided to authorities to assist in winding down failed firms, should be prepared with the following example aims in mind:

- To prevent continued dependency on government bailouts
- To minimise any impact on financial stability and investors
- To facilitate efficient and prompt decision-making in times of crisis

<http://www.fsa.gov.uk/library/communication/pr/2012/052.shtml>

8 May: Insider dealer ordered to pay £570,000 in confiscation. Rupinder Sidhu, who was convicted in December 2011 for 22 counts of insider dealing, has had a confiscation order in the sum of £572,283.21 made against him. The sum represents the amount Sidhu obtained through insider dealing. If Sidhu fails to pay within 28 days, he could face having his two year prison sentence extended by a further five years.

<http://www.fsa.gov.uk/library/communication/pr/2012/050.shtml>

8 May: FSA bans executive chairman of wholesale insurer and imposes fines of almost £3.5 million on the firm.

The FSA has fined Mitsui Sumitomo Insurance Company (Europe) Ltd ("Mitsui") £3,345,000 and banned its former executive chairman, Yohichi Kumagai, from performing controlled functions as well as also fining him £119,303.

For the related final notices, please see the relevant section of this update.

<http://www.fsa.gov.uk/library/communication/pr/2012/044.shtml>

Speeches:

9 May: Building Societies Association Annual Conference.

The FSA has published a speech delivered by Martin Wheatley at the Building Societies Association's Annual Conference. In his speech, Wheatley highlights the importance for building societies of maintaining a commitment to their customers and how the FCA's role will enable it to spend time focusing on where customers have in the past been let down to prevent future recurrences and to repair the relationship customers have with the financial sector. It is, however, a forward-looking authority that will aim to spend far more time on taking preventative steps than on dwelling on the past. Of particular relevance to building societies were issues of appropriate managerial selection and board supervision.

<http://www.fsa.gov.uk/library/communication/pr/2012/051.shtml>

<http://www.fsa.gov.uk/library/communication/speeches/2012/0904-mw.shtml>

Bulletins and newsletters:

No new developments this week.

Final notices:

10 May: Martin Currie. The FSA has issued a final notice, dated 2 May 2012, fining Martin Currie (the combined name for Martin Currie Investment Management Limited and Martin Currie Inc) £3.5 million for breaches of Principles 2 (skill, care and diligence), 3 (management and control) and 8 (conflicts of interest) of the FSA's Principles for Businesses. Specifically, Martin Currie:

- Failed to put in place adequate systems and controls
- Failed to conduct sufficient due diligence and credit risk analyses
- Gave an inaccurate impression to investors by classifying an unlisted bond investment as "cash" in its monthly updates
- Failed to fairly manage a conflict of interest between two funds and failed to disclose that conflict to the relevant parties

Martin Currie's early cooperation entitled it to a 30% discount on its fine which would otherwise have been £5 million.

<http://www.fsa.gov.uk/static/pubs/final/martin-currie.pdf>

10 May: Mortgages UK 1970. The FSA has issued a final notice, dated 10 May, cancelling Mortgage UK 1970's Part IV permission for its failure to submit its Retail Mediation Activities Return for the period ending 30 September 2011. This failure led the FSA to conclude that Mortgage UK 1970 is not ready, willing and organised to comply with requirements and standards under the regulatory system.

<http://www.fsa.gov.uk/static/pubs/final/paulo-monteiro.pdf>

10 May: Paulo Monteiro. The FSA has issued a final notice, dated 10 May, cancelling Paulo Monteiro's Part IV permission for his failure to submit his Retail Mediation Activities Return for the period ending 30 September 2011. This failure led the FSA to conclude that Mr Monteiro was not a fit and proper person and was not conducting his business soundly and prudently.

<http://www.fsa.gov.uk/static/pubs/final/paulo-monteiro.pdf>

9 May: Syed Zaidi. The FSA has issued a final notice, dated 9 May, cancelling the registration granted to Mr Zaidi as a small payment institution under the Payment Services Regulation 2009. Mr Zaidi failed to pay fees and levies in the sum of £475 owed to the FSA despite repeated requests by the FSA that he does so and therefore Mr Zaidi has demonstrated a lack of readiness and willingness to comply with his regulatory obligations and has not dealt with the FSA in a co-operative manner.

<http://www.fsa.gov.uk/static/pubs/final/syed-zaidi.pdf>

Further information

If you would like further information on any issue raised in this update please contact:

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8 May: Mitsui Sumitomo Insurance Company (Europe) Ltd.

The FSA has issued a final notice, dated 8 May 2012, fining Mitsui Sumitomo Insurance Company (Europe) Ltd ("Mitsui") £3,345,000 for breaches of Principle 3 of the FSA's Principles for Businesses between 1 October 2009 and 31 March 2011. Mitsui's early co-operation with the FSA, as well as the substantial steps that have since been taken by the company, entitled it to a 30% discount on its fine.

For the related press release, please see the relevant section of this update.

<http://www.fsa.gov.uk/static/pubs/final/msicel.pdf>

8 May: Yohichi Kumagai. The FSA has issued a final notice, dated 8 May 2012, fining Yohichi Kumagai (former executive Chairman and Managing Director of Mitsui) £119,303 and prohibiting him from performing any controlled function with significant influence in relation to regulated activities on the grounds that he has been held not to be a fit and proper person to perform such functions. Kumagai's agreement to settle at an early stage entitled him to a 30% discount on his fine.

For the related press release, please see the relevant section of this update.

<http://www.fsa.gov.uk/static/pubs/final/yohichi-kumagai.pdf>

Application refusals:

No new developments this week.

Approved person refusals:

No new developments this week.

Research publications:

No new developments this week.

Consumer research:

No new developments this week.

Other FSA publications:

10 May: Recovery and Resolution Plans.

The FSA has published a feedback statement that reports on developments from the consultation paper on Recovery and Resolution Plans (CP11/16). It summarises the responses to the consultation paper and sets out the proposed next steps. The proposed rules will ensure that financial institutions have suitable recovery plans in place to implement

in times of stress and that regulatory bodies are aware of the firms' organisational arrangements so as to be able to formulate a resolution plan.

<http://www.fsa.gov.uk/library/policy/dp/2012/fs12-01>

8 May: Information on interest rate swap products.

The FSA has published a new webpage to provide information on the work it is carrying out on the sales of interest rate swap products. In particular, the FSA is going to be looking at the way in which these products were sold to small and medium-sized enterprises (SMEs) in order for it to be able to assess the scale and severity of the potential issues that may arise in terms of the suitability of the products for those clients.

http://www.fsa.gov.uk/library/other_publications/interest-rate-swaps

8 May: FSA Handbook Release 125.

The FSA has released a Handbook update to be inserted into the paper handbook to bring it up to date. The release covers changes that came into force between 7 April 2012 and 6 May 2012.

<http://www.fsa.gov.uk/library/policy/handbook/releases/2012/125>

UKLA publications:

No new developments this week.

Upper Tribunal (Tax and Chancery Chamber) (formerly Financial Services and Markets Tribunal (FSMT)):

No new developments this week.

Financial Ombudsman Service (FOS):

No new developments this week.

London Stock Exchange (LSE):

8 May: Monte Titoli signs ECB T2S Framework Agreement.

Monte Titoli has signed the European Central Bank's (ECB) T2S Framework Agreement in Germany. Monte Titoli has been a firm supporter of the T2S project from the outset and continues to be committed to improving efficiency, harmonisation and competitive processes in the European security settlement infrastructure.

<http://www.londonstockexchange.com/about-the-exchange/media-relations/press-releases/2012/montetitoli.htm>