

## WEEKLY FINANCIAL SERVICES AND REGULATORY UPDATE

Week up to 26.06.09

This weekly update from Barlow Lyde & Gilbert LLP's Financial Services and Regulatory Team summarises new developments as reported by the FSA, the UKLA, the Financial Services and Markets 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 **Ian Mason** (020 7643 7265, [imason@blg.co.uk](mailto:imason@blg.co.uk)), head of the Financial Services and Regulatory Team.

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 [fsu@blg.co.uk](mailto:fsu@blg.co.uk)

Members of our team regularly write articles on a wide range of financial services and regulatory issues covering both legal and industry developments for the legal and business press. A selection of our published material can be downloaded from our website at [www.blg.co.uk](http://www.blg.co.uk)

### Consultation papers:

25 June: CP09/18: Distribution of retail investments: Delivering the RDR. The FSA published a consultation paper setting out proposed changes as a result of the Retail Distribution Review and includes draft Handbook text to deliver those changes. The consultation period closes on 30 October 2009.

[http://www.fsa.gov.uk/pages/Library/Policy/CP/2009/09\\_18.shtml](http://www.fsa.gov.uk/pages/Library/Policy/CP/2009/09_18.shtml)

### Discussion papers:

No new developments this week.

### Policy statements:

26 June: PS09/10: Extension of the short selling disclosure obligation: Feedback to CP09/15. The FSA published a Policy Statement reporting on the main issues arising from Consultation Paper 09/15 (Extension of the short selling disclosure obligation). The document includes the final text of changes to be made to the Code of Market Conduct.

[http://www.fsa.gov.uk/pubs/policy/ps09\\_10.pdf](http://www.fsa.gov.uk/pubs/policy/ps09_10.pdf)

### Press releases:

26 June: UK short selling disclosure regime extended. The FSA extended its current disclosure regime for significant net positions in UK stocks, due to expire on 30 June. The extension is without time limit and will, according to the FSA press release, continue to help reduce the potential for abusive behaviour and disorderly markets. Disclosures therefore still need to be made if a net short exceeds 0.25% of a company's issued share capital or increases by 0.1% bands above that level, e.g. 0.35%, 0.45%, etc.

<http://www.fsa.gov.uk/pages/Library/Communication/PR/2009/084.shtml>

26 June: FSA bans director for inadequate supervision of his firm. The FSA has banned Simon Robins, Compliance Director of Chase UK Corporation Limited (Chase), for failing to adequately supervise the operations of the firm, which enabled third parties to use the company to obtain mortgage applications on a fraudulent basis.

<http://www.fsa.gov.uk/pages/Library/Communication/PR/2009/083.shtml>

25 June: FSA details the enhanced standards people can expect from all investment advisers. The FSA issued a consultation paper on its Retail Distribution Review (RDR) which sets out detailed proposals to implement the wide-ranging reforms it outlined in November last year. The changes, which will take effect from the end of 2012, aim to improve outcomes for savers and investors by enhancing the quality of advice they receive, and prepare both consumers and the industry for the future.

<http://www.fsa.gov.uk/pages/Library/Communication/PR/2009/082.shtml>

24 June: FSA publishes Annual Report for 2008/09. The FSA published its Annual Report for 2008/09. The report details the FSA's performance against its statutory objectives and how it has delivered outcomes for both firms and consumers under the three headings which cover all the FSA's work: to promote efficient, orderly and fair markets, help retail consumers achieve a fair deal and improve its business capability and effectiveness.

<http://www.fsa.gov.uk/pages/Library/Communication/PR/2009/081.shtml>

The report is available here:

[http://www.fsa.gov.uk/pages/Library/Corporate/Annual/ar08\\_09.shtml](http://www.fsa.gov.uk/pages/Library/Corporate/Annual/ar08_09.shtml)

22 June: FSA refers firms to enforcement in clampdown on poor mortgage arrears handling. The latest review from the FSA has found continued weaknesses in the way specialist lending firms and third party administrators are handling mortgage arrears and repossessions. Four firms have been referred to enforcement for investigation and several more firms are being assessed for referral. In many cases, the FSA found a high incidence of mortgages moving straight into arrears and potential breaches of responsible lending rules.

<http://www.fsa.gov.uk/pages/Library/Communication/PR/2009/080.shtml>

#### **Speeches:**

24 June: The future of financial regulation - Insights from a regulator. The FSA published a speech by Dan Waters, FSA Asset Management Sector Leader, which considers the impact of European regulatory developments. Specifically, Mr Waters discussed the new Directive on Alternative Investment Fund Managers and the reform of the UCITS framework.

[http://www.fsa.gov.uk/pages/Library/Communication/Speeches/2009/0624\\_dw.shtml](http://www.fsa.gov.uk/pages/Library/Communication/Speeches/2009/0624_dw.shtml)

#### **Bulletins and newsletters:**

No new developments this week.

#### **Final notices:**

26 June: Simon William Robins. The FSA published its decision to withdraw approval given to him to perform controlled functions in relation to Chase UK Corporation Limited and made an order prohibiting him from carrying out any controlled function involving the exercise of any significant influence, pursuant to section 56.

[http://www.fsa.gov.uk/pubs/final/simon\\_robins.pdf](http://www.fsa.gov.uk/pubs/final/simon_robins.pdf)

24 June: Heritage Finance Limited (HFL). The FSA published its decision to cancel the Part IV permission granted to HFL. The FSA took this action because HFL failed to notify the FSA of a change in the address of its principal place of business. Consequently the FSA has no current, valid contact information for HFL, and has no means of communicating with the company.

[http://www.fsa.gov.uk/pubs/final/heritage\\_finance.pdf](http://www.fsa.gov.uk/pubs/final/heritage_finance.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:**

25 June: Describing advice services and adviser charging. The FSA published a report exploring options for improving the way in which advice services are described and presented to consumers. The research was designed to address two of the principal aims of the RDR: to help consumers understand the nature of the advisory service offered and to help them understand the cost of the advisory service.

<http://www.fsa.gov.uk/pubs/consumer-research/crpr78.pdf>

**Other FSA publications:**

26 June: Handbook Development (Issue 112). The FSA published the latest issue of its Handbook Development Newsletter which contains details of recent handbook-related and other publications. This issue includes a table setting out key dates and information on periodic fees for authorised firms and a list of forthcoming publications.

<http://www.fsa.gov.uk/pubs/handbook/hb112.pdf>

26 June: Handbook Notice 89. The FSA published Handbook changes made by the Board on 25 June 2009. The document also publishes feedback on responses to various consultations.

[http://www.fsa.gov.uk/pubs/handbook/hb\\_notice89.pdf](http://www.fsa.gov.uk/pubs/handbook/hb_notice89.pdf)

25 June: Retail Distribution Review proposals: Impact on market structure and competition. The FSA published a report setting out the results of an assessment of the impact on market structure and competition of the proposals that emerge from the Retail Distribution Review. The review looked at the following issues:

- Vertical integration;
- Competition in the market for financial services products; and
- Competition in the market for advice.

[http://www.fsa.gov.uk/pubs/other/oxera\\_rdr.pdf](http://www.fsa.gov.uk/pubs/other/oxera_rdr.pdf)

25 June: Firm behaviour and incremental compliance costs. The FSA published a report by Deloitte which analysed the expected impact of the proposed changes (set out in the FSA's Feedback Statement on the Retail Distribution Review) on the behaviour of both intermediary and provider firms participating in the retail investment market and to estimate the incremental compliance costs arising from the proposed changes.

<http://www.fsa.gov.uk/pubs/other/fbicc.pdf>

25 June: FSA Estimation of Total Incremental Compliance Costs for RDR Proposals. The FSA published a note which explains how it estimated the total incremental compliance costs of the RDR proposals, using information from Deloitte's survey of compliance costs and other sources of data, such as FSA administrative data.

[http://www.fsa.gov.uk/pubs/other/rdr\\_report\\_Jun09.pdf](http://www.fsa.gov.uk/pubs/other/rdr_report_Jun09.pdf)

24 June: Enforcement Annual Performance Account 2008/09. The FSA published its Enforcement Annual Performance Account which details the fairness and effectiveness of its enforcement process. The Account is published with the FSA's Annual Report but, while the Report contains a selection of key enforcement outcomes, the Performance Account communicates the FSA's approach to enforcement more generally.

[http://www.fsa.gov.uk/pubs/annual/ar08\\_09/enforcement\\_report.pdf](http://www.fsa.gov.uk/pubs/annual/ar08_09/enforcement_report.pdf)

**UKLA publications:**

No new developments this week.

**Financial Services and Markets Tribunal:**

No new developments this week.

**Financial Ombudsman Service:**

23 June: Financial Ombudsman Service response to FSA discussion paper (DP08/5) on consumer responsibility. The FOS published its response to the FSA's discussion paper on consumer responsibility which aimed to explore ways to help consumers understand and protect their own interests more effectively. The FOS response is critical of a number of issues in the paper, including the FSA's summary of the basic legal position, which, it argues, fails to take account of consumer protection legislation and the concept of a "balance of responsibilities" which it believes is potentially misleading to businesses.

<http://www.financial-ombudsman.org.uk/publications/policy-statements/response-to-FSA-DP08-5.html>

**London Stock Exchange:**

22 June: Blue Oar publicly censured and fined £225,000. The LSE announced that Blue Oar Securities plc (now known as Astaire Securities plc) (Blue Oar), an AIM Nominated Adviser (Nomad), has been fined £225,000 and publicly censured in respect of its conduct. These sanctions were imposed because Blue Oar failed to adequately assess a company's appropriateness for AIM and failed to take the necessary steps to ensure that the company addressed certain business and operational issues before its admission to AIM in June 2006.

<http://www.londonstockexchange.com/about-the-exchange/media-relations/press-releases/2009/blueoarpubliclycensuredandfined225000.htm>

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