BARLOW LYDE & GILBERT

Financial Services Regulatory Team

"Ian Mason is an acknowledged expert on all aspects of contentious work, drawing on his vast previous experience as the FSA's Head of Enforcement."

Chambers & Partners, 2010

Today's financial services industry is more heavily regulated than ever, with sources of regulatory requirements including UK primary legislation, FSA rules and principles, European legislation and increased involvement from regulators outside Europe such as the SEC and the OCC. Regulation of the industry is becoming increasingly complex and the focus of much attention from all sides, and the FSA has been significantly increasing its supervisory and enforcement capability in recent times.

Our financial services regulatory team, in conjunction with our financial services insurance and professional liability practices where appropriate, advises on a broad range of advisory, compliance and transactional matters, both contentious and non-contentious, for financial services industry clients including FSA investigations and defending claims from clients. These include insurers, underwriters, brokers and other intermediaries, retail and investment banks, hedge funds, fund managers, corporate finance advisory boutiques, stockbrokers, IFAs and professional firms.

We have direct experience of the impact of the credit crunch on transactions and complex investments. We have advised on a number of substantial disputes concerning financing packages for private equity deals, misselling and mismanagement claims in respect of complex investment products such as CDOs, SIVs and leveraged funds, and disputes concerning hedging and derivatives transactions.

Our experience

Individuals within the team have strong and broad experience of managing FSA investigations and litigation relating to insurance, financial crime, market abuse and other regulatory contraventions requiring enforcement action. The team is experienced in advising on the FSA's insolvency powers with particular regard to insurance and litigation matters.

Team members have worked at both the FSA and exchanges and on the advisory side within legal practice, as well as at regulated firms in compliance and legal roles. This means that our advice is focused and practical. We place a high priority on maintaining good relations with the FSA and other regulators so that they treat our opinions with respect.

"Drawing on his experience... he leads the team in its "excellent assistance" to both firms and individuals involved in FSA investigations into market abuse and conduct of business."

Chambers & Partners, 2009

The head of the team, Ian Mason, is a former Head of Department in the FSA Enforcement Division.

Much of our work arises from referrals and recommendations by other law firms and compliance consultants.

We work with consultants on a frequent basis, on matters ranging from reviews and audits to skilled persons' reports. The team is constantly looking for ways in which to build up good working relationships with those working in or advising the industry and create business development opportunities by collaboration.

The team regularly writes for a wide number of cross-sector financial services publications, websites and journals. Our published articles and client briefing notes are available to view on our website at http://www.blg.co.uk/publications.aspx. We also produce a weekly newsletter (FS Update) and a tracker of global regulatory initiatives and themes (GRIT) on a quarterly basis. If you would like to start receiving these, please contact Abigail Potts or your usual contact. ■

Compliance advisory services

Our team can provide advice at the outset on:

- which business falls within FSA regulation and requires authorisation
- the establishment of financial services businesses of all kinds, and the need for authorisation and the establishment of representative offices
- design, development and distribution of financial products, with particular expertise in insurance and investment products

We can provide ongoing business advice on:

- general financial services regulation and compliance
- financial crime prevention, including anti-money laundering legislation, policies and procedures
- data protection legislation and procedures
- competition matters
- IT issues such as the use of electronic media for the sale of financial services and for securities transactions
- outsourcing of administration and the buying-in of administration systems
- unfair contract terms and treating customers fairly

We have the requisite experience in-house to advise on all of the related issues that may arise such as tax structuring, financing, pensions and employment.

Our corporate and finance teams also provide a full range of assistance for relevant transactions in the financial services sector. The teams have advised specifically on:

- the implications of the implementation in the UK of the Insurance Mediation Directive in various business sectors, a number of trade associations (including the Association of Insurance and Risk Managers (AIRMIC)) and sector-specific insurers (including the National House-Building Council)

"The group has a thorough understanding of its clients' business – it sees the bigger picture and does not get overly hung up on minor points of legal detail unless it is necessary."

Chambers & Partners, 2010

- issues arising in the UK as a result of the "Spitzer" actions against Marsh, AIG and others in the US
- lobbying for AIRMIC and various large corporates on a complex insurance-related FSA authorisation issue. ■

Regulatory investigations and enforcement

Our contentious financial services regulatory team, building on BLG's strong litigation expertise, is well equipped to advise and represent clients at all stages of regulatory investigations and enforcement proceedings. Our advice is grounded on a strong understanding of how the FSA applies its rules in practice and detailed experience of negotiating with the FSA.

We also advise on and handle any related financial services litigation to which the firm or individual concerned may be exposed.

We have the capability to conduct large and small-scale independent investigations for companies, senior management and regulators, as well as skilled persons reports either as part of a general or specific risk review, or in response to a particular concern. We have experience of:

- advising on and handling compliance problems from initial identification and investigation of the issues to their conclusion
- advising and representing clients during the course of FSA investigations
- defending FSA enforcement proceedings, whether administrative, civil or criminal
- defending related financial services litigation, including class actions or their equivalent
- dealing with complaints before the Financial Ombudsman Service

"Barlow Lyde & Gilbert LLP is noted for its FSA enforcement work."

Legal 500, 2009

We have experience of acting for both the company and individuals involved in investigations, and we are aware of the different considerations to take into account. We understand the pressure that investigations can place on individuals and businesses and are practiced at managing the relationships to minimise conflict in the best interests of our clients.

We regularly advise on cases involving overseas regulators in conjunction with correspondent regulatory specialists in those jurisdictions, as required.

Our experience includes advising clients involved in some of the largest recent FSA investigations and the largest disputes in the financial services sector, including:

- representing a leading hedge fund in an FSA market abuse investigation
- representing various stockbroking firms and their senior management teams in FSA investigations concerning sales practices and TCF
- representing an investment analyst at an investment bank in the leading FSA case concerning disclosure of investment research
- representing a listed company in an FSA investigation concerning breaches of the Listing Rules
- representing the former chief financial officer of Shell in relation to the FSA and SEC investigations into Shell's Proved Reserves

"Peers ... acknowledge the firm's clear commitment to building a contentious regulatory practice."

Chambers & Partners, 2009

- advising the London Stock Exchange on a leading disciplinary case against a nominated adviser under AIM rules
- representing the National House-Building Council (NHBC) in discussions with the FSA as to whether builders who participated in the NHBC scheme require authorisation by the FSA as insurance intermediaries
- the Finite Reinsurance investigations involving APRA and the FSA
- representing corporate finance stockbroking houses and key individuals in relation to the FSA investigation into the Split Capital Investment Trust sector, and subsequently in the related civil claims and claims before the Financial Ombudsman Service

We are also able to advise on bringing judicial review proceedings against the FSA or other regulators and institutions.

Bespoke client seminars

We would be delighted to offer seminars and compliance training tailored to your team's requirements or to discuss any aspect of your business with you.

We can either attend and present at your offices, or you may wish to make use of our seminar suites.

We suggest that for any one topic you allow about an hour. We are happy to use a lecture style or to conduct a workshop with scenario-based training materials.

Please contact Ian Mason (see details below) or your usual contact to discuss your requirements.

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