COMPLIANCE

JANUARY 2014

NEWSLETTER

ISSUE 14

Forum Compliance .be

IN THIS ISSUE:

Dear Colleagues,
Dear Members,

The whole Board joins me to address our season's greetings to all of you. We wish you a warm, happy, prosperous and healthy new year. May 2014 bring you a lot of satisfactions both professionally and personally throughout the year !

You will find quite interesting articles in this Newsletter.

I mentioned last time a.o. the mortgage Directive and the draft bill on SME's credits on which you will find more information in this issue. Several articles also deal with remuneration aspects: having an ethical incentives scheme in place which demonstrates the willingness to act in the client's best interest and within the (MiFID) rules of conduct is key for the Compliance function.

As you will see, misselling is more and more heavily sanctioned.

I draw your attention on the article on page 4. Anti-trust is a topic we should certainly keep a close eye on and make sure it is properly dealt with, as the case may be by another department than the Compliance one, at least from the preventive side.

I wish you a pleasant reading and remind you that our next event will take place on February 11th. We look forward meeting with you again at this occasion !

Marie-France De Pover

Chairwoman

FIRM FINED £1.8MILLION FOR "UNACCEPTABLE" APPROACH TO BRIBERY RISKS FROM OVERSEAS PAYMENTS

SPECIAL POINTS OF INTEREST:

- SEC charges Microsoft senior manager and friend with Insider Trading
- ESMA preparatory work for new Market Abuse Regime
- Volcker Rule: impact on Foreign Banking Organizations
- EU to review regime For Personal Data Transfers to the US

On 19 December 2013, the UK Financial Conduct Authority has fined JLT Specialty Limited (JLTSL) over £1.8million for failing to have in place appropriate checks and controls to guard against the risk of bribery or corruption when making payments to overseas third parties.

JLTSL, which provides insurance broking and risk management services, was found to have failed to conduct proper due diligence before entering into a relationship with partners in other countries who helped JLTSL secure new business, known as overseas introducers. Between 19th February 2009 and 9th May 2012, JLTSL received almost £20.7 million in gross commission from business provided by overseas introducers, and paid them over £11.7 million in return.

Inadequate systems around these payments created an unacceptable risk that overseas introducers could use the payments made by JLTSL for corrupt purposes, including paying bribes to people connected with the insured clients and/or public officials.

JLTSL's penalty was increased because of its failure to respond adequately either to the numerous warnings the FCA had given to the industry generally or to JLTSL specifically.

The fine of £1,876,000 follows JLTSL's agreement to settle at an early stage of the investigation. As a result, it qualifies for a 30% reduction on the original penalty of £2,684,013.

EU COMMISSION PROPOSES DIRECTIVE ON PROTECTION OF CONFIDENTIAL BUSINESS INFORMATION

The European Commission has proposed on November 28, 2013 new rules on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure.

The draft directive introduces a common definition of trade secrets, as well as means through which victims of trade secret misappropriation can obtain redress. It will make it easier for national courts to deal with the misappropriation of confidential business information, to remove the trade secret infringing products from the market and make it easier for victims to receive damages for illegal actions.

In today's knowledge economy, the capacity of companies to innovate and compete can be seriously harmed when confidential information is stolen or misused. According to a recent survey, one in five companies has suffered at least one attempt to steal its trade secrets in the last ten years. According to another recent study, the numbers are going up with 25% of companies reporting theft of information in 2013, up from 18% in 2012.

There are substantial differences in the laws in place in EU countries on protection against trade secret misappropriation. Some countries have no specific laws on the issue.

Businesses find it difficult to understand and access the systems of other Member States and, whenever they become victims of misappropriation of confidential know-how, they are reluctant to bring civil court proceedings as they are not sure the confidentiality of their trade secrets will be upheld by the courts. The current fragmented system has a negative effect on cross-border cooperation between business and research partners and is a key obstacle to using the EU single market as an enabler of innovation and economic growth.

The proposal aims to give businesses an adequate level of protection and an effective means of redress if their trade secrets are stolen or misused. The sound, balanced and harmonised system of trade secret protection will give businesses and researchers a safer environment in which they can create, share and license valuable know-how and technology across the borders of the single market.

It will also facilitate the engagement of companies and researchers from different EU countries in common and collaborative projects for innovation and research.

Cybercrime and industrial espionage are unfortunately part of the reality

EBA, EIOPA AND ESMA JOINT POSITION ON PRODUCT OVERSIGHT AND GOVERNANCE PROCESSES

The Joint Committee of the three European Supervisory Authorities published on November 28, 2013 eight principles applicable to the oversight and governance processes of financial products. These principles cover in particular the responsibilities of manufacturers and producers in setting up processes, functions and strategies for designing and marketing financial products, as well as at reviewing the products' life cycle.

The Joint Position of the European Supervisory Authorities (ESAs) highlights in particular that the design of financial products and services poses risks to consumers when the target market is not correctly identified.

These risks can also arise when the objectives and characteristics of the target market are not duly taken into account in the marketing of products to consumers.

The eight high level principles developed by the three ESAs in their Joint Position stress the importance of the controls that manufacturers should put in place before launching their

(continued on next page)

EBA, EIOPA AND ESMA JOINT POSITION ON PRODUCT OVERSIGHT AND GOVERNANCE PROCESSES (PARTII)

products, thus discouraging products and services that may cause consumer detriment from entering the market and thus ultimately enhancing consumers' confidence in financial markets.

The Joint Position is not directly addressed to market participants and competent authorities but it will provide a high-level, consistent basis for the development of more detailed principles addressed to manufactures by each ESA in the respective sectors.

The Joint position is therefore without prejudice to any work that is being developed by each ESA, including in the context of the review of sectoral Directives.

DUTCH GOVERNMENT PROPOSES NEW REMUNERATION RULES AND BONUS CAP FOR FINANCIAL INSTITUTIONS

The Dutch government has issued a draft legislative proposal including further remuneration rules for employees in the financial sector. It is currently envisaged that the relevant rules would enter into force as of 1 January 2015.

The proposal's remuneration requirements and restrictions would apply on top of the restrictions already imposed under the Dutch implementation of the Capital Requirements Directive (CRD 3 and 4), the Alternative Investments Fund Managers Directive (AIFMD) and Undertakings for Collective Investment in Transferable Securities Directives (UCITS).

The rules would, in principle, only apply to financial institutions with their statutory seat in the Netherlands. The umbrella concept of financial institution covers banks, investment firms, fund managers, payment services providers, custodians, insurers and certain other financial services providers. The rules would also apply to subsidiaries of such Dutch companies, whether located inside or outside the Netherlands. Furthermore, if the ultimate parent company of the Dutch financial institution is also established in the Netherlands, that parent company would be required to apply the remuneration rules throughout its group (unless the main business of the group as a whole is not financial services related).

The rules include a bonus cap of 20%, which would however not apply to AIFMD managers, UCITS managers, Dutch branch offices of EEA banks and EEA Dutch investment firms. Though not completely certain at this time, the cap seems to apply to Dutch branches of non EEA banks and non EEA investment firms.

Further restraints on remuneration in the Dutch financial sector

PROPOSAL OF LAW ON THE FINANCING OF SME'S

On 26 November 2013, the Chamber Commission approved the bill on the reform of SME credits.

Banks will have the obligation to offer the most suitable credit taking into account the needs of the company. Moreover, information transparency will be strengthened and the compensation fee for early repayment will be restricted to six months interest in order to ensure a more balanced relation between the bank and SMEs.

The proposal awaits approval by the Chamber.

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COMMISSION FINES BANKS € 1.71 BILLION FOR PARTICIPATING IN CARTELS

The European Commission has fined 8 international financial institutions a total of € 1 712 468 000 for participating in illegal cartels in markets for financial derivatives covering the European Economic Area.

Four of these institutions participated in a cartel relating to interest rate derivatives denominated in the euro currency. Six of them participated in one or more bilateral cartels relating to interest rate derivatives denominated in Japanese yen.

Such collusion between competitors is prohibited by Article 101 of the Treaty on the Functioning of the European Union and Article 53 of the EEA Agreement.

The cartel in Euro interest rate derivatives (EIRD)

The EIRD cartel operated between September 2005 and May 2008. The settling parties are Barclays, Deutsche Bank, RBS and Société Générale. The cartel aimed at distorting the normal course of pricing components for these derivatives. Traders of different banks discussed their bank's submissions for the calculation of the EURIBOR as well as their trading and pricing strategies.

The Commission's investigation started with unannounced inspections in October 2011. The Commission opened proceedings in March 2013. Barclays was not fined as it benefited from immunity under the Commission's 2006 Leniency Notice for revealing the existence of the cartel to the Commission. Deutsche Bank, RBS and Société Générale received a reduction of their fines for their cooperation in the investigation under the Commission's leniency programme. These companies received a further fine reduction of 10% for agreeing to settle the case with the Commission.

In the context of the same investigation, proceedings were opened against Crédit Agricole, HSBC and JPMorgan and the investigation will continue under the standard (non-settlement) cartel procedure.

The cartels in Yen interest rate derivatives (YIRD)

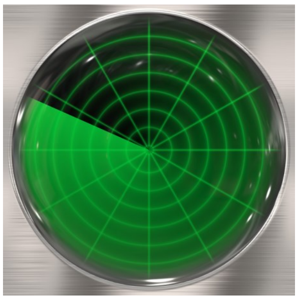
In the YIRD sector, the Commission uncovered 7 distinct bilateral infringements lasting between 1 and 10 months in the period from 2007 to 2010. The collusion included discussions between traders of the participating banks on certain JPY LIBOR submissions. The traders involved also exchanged, on occasions, commercially sensitive information relating either to trading positions or to future JPY LIBOR submissions (and in one of the infringements relating to certain future submissions for the Euroyen TIBOR – Tokyo interbank offered rate).

The banks involved in one or more of the infringements are UBS, RBS, Deutsche Bank, Citigroup and JPMorgan. The broker RP Martin facilitated one of the infringements by using its contacts with a number of JPY LIBOR panel banks that did not participate in the infringement, with the aim of influencing their JPY LIBOR submissions.

The Commission opened proceedings in February 2013. UBS received full immunity under the Commission's 2006 Leniency Notice for revealing to the Commission the existence of the infringements. Citigroup also benefited from full immunity for its participation in one bilateral infringement. For their cooperation with the investigation, the Commission granted fine reductions to Citigroup, Deutsche Bank, RBS and RP Martin, under the Commission's leniency programme. The companies have also been granted a fine reduction of 10% for agreeing to settle the case with the Commission.

The fines

In setting the level of fines, the Commission took into account the banks' value of sales for the products concerned within the EEA, the very serious nature of the infringements, their geographic scope and respective durations.



EUROPEAN PARLIAMENT ADOPTS MORTGAGE CREDIT RULES

The European Parliament has confirmed on December 10, 2013 its willingness to make the mortgage credit sector subject to improved consumer protection measures at EU level by approving new rules on mortgages. Consumers have lost trust in the financial sector: these new rules will help rebuild that trust.

Too often consumers took out mortgages without being fully aware of the risks they were exposing themselves to. When the crisis hit, many found it hard to meet their obligations and ended up losing their homes with the terrible consequences that entails. The consequences for the economy at large have also been serious.

The aim of the Mortgage Credit Directive is to make responsible mortgage lending the norm across Europe. The purchase of a property entails substantial costs which are often financed by a mortgage. Mortgages account for the entire outstanding debt of two-thirds of European households.

This Directive introduces responsible lending practices across the EU. Consumers will be better informed.

It ensures that vulnerable consumers are protected by reducing the risk of over-indebtedness and default.

Creditors will be encouraged to apply reasonable forbearance when confronted with consumers in serious payment difficulties.

It will also, in the long run, provide lenders with new business opportunities through the creation of a Single European Mortgage Market. Credit intermediaries that comply with the new business conduct rules will gain access to many more potential consumers in the single market via the passport regime. This will result in more EU-wide competition and is expected to drive down prices in the long run.

The main objectives of the new rules are following:

1. Better information, more time to decide, heightened credit worthiness assessment standards

Consumers will be better informed. Lenders will have to provide them with a standardised information sheet (ESIS) which will allow them to shop around to identify the right product for them. To alert consumers to potential rate variations, the ESIS will also include worst-case scenarios as far as variable interest loans are concerned.

Borrowers will benefit from a guaranteed period of time before being bound by an agreement for a mortgage (through a period of reflection, a right of withdrawal, or both).

2. Business conduct rules

Lenders and credit intermediaries will be obliged to respect high-level principles in their direct contacts with clients. This means ensuring that the way they are paid does not prevent them from taking account of the consumer's interests or disclosing any links between the credit intermediary and the creditor. Staff will have to have the appropriate knowledge and competence and be obliged to provide adequate explanation at the pre-contractual stage. There will also be standards for advisory services.

3. Early repayment

The Directive will grant consumers a general right to repay their loans early, thereby benefiting from a reduction in the total remaining cost of the mortgage. .

4. Passport regime for credit intermediaries

The Directive establishes principles for the authorisation and registration of credit intermediaries and establishes a passport regime for those intermediaries.

5. Arrears and foreclosures

The Directive also encourages lenders through high-level principles to apply reasonable forbearance when being confronted with consumers in serious payment difficulties.

The proposal covers all loans made to consumers for the purpose of buying a home

FCA FINES LLOYDS BANKING GROUP FIRMS A TOTAL OF £28,038,800 FOR SERIOUS SALES INCENTIVE FAILINGS

The UK Financial Conduct Authority (FCA) has fined Lloyds TSB Bank plc and Bank of Scotland plc, both part of Lloyds Banking Group (LBG), £28,038,800 for serious failings in their controls over sales incentive schemes. The failings affected branches of Lloyds TSB, Bank of Scotland and Halifax (which is part of Bank of Scotland).

This is the largest ever fine imposed by the FCA.

The incentive schemes led to a serious risk that sales staff were put under pressure to hit targets to get a bonus or avoid being demoted, rather than focus on what consumers may need or want. In one instance an adviser sold protection products to himself, his wife and a colleague to prevent himself from being demoted.

Financial incentive schemes are an important indicator of what management values and a key influence on the culture of the organisation, so they must be designed with the customer at the heart.

The FCA's investigation focused on advised sales of investment products (such as share ISAs) and protection products (such as critical illness or income protection) between 1 January 2010 and 31 March 2012.

During this period:

- Lloyds TSB advisers sold more than 630,000 products to over 399,000 customers, who invested about £1.2bn and paid £71m in protection premiums.
- Halifax advisers sold over 380,000 products to more than 239,000 customers, who invested around £888m and paid £38m in protection premiums.
- Bank of Scotland advisers sold over 84,000 products to over 54,000 customers, who invested around £170m and paid £9m in protection premiums.

The incentive schemes rewarded advisers through variable base salaries, individual and team bonuses and one-off payments and prizes.

Systems and controls used by the firms to manage the incentive schemes were inadequate. While advisers were required to meet certain competency standards to be eligible for promotions and bonuses, this control was seriously flawed and seven out of ten advisers at Lloyds TSB and three out of ten at Halifax still received their monthly bonus even though a high proportion of sales were found - by the firms themselves - to be unsuitable or potentially unsuitable.

Further, 229 advisers at Lloyds TSB received a bonus even when all of their assessed sales were deemed unsuitable or potentially unsuitable; and 30 advisers received a bonus in the same circumstances on more the one occasion.

The managers that were responsible for ensuring good practice by advisers also had their own performance measured against sales targets - a clear conflict of interest that needed careful management.

The FCA recognises that firms may want to incentivise staff to sell but the risks inherent in any incentive scheme, however well designed, must be managed. In this case the scheme presented significant risks but the firms did not ensure that their systems and controls were sufficient to mitigate those risks.

The FCA increased the fine by 10 per cent because:

- The previous regulator, the FSA, had warned about the use of poorly managed incentive schemes over a number of years; and
- The firms' previous disciplinary record, including an FSA fine on Lloyds TSB Bank plc for the unsuitable sale of bonds in 2003 caused in part by the general pressure to meet sales targets.

Both firms have agreed to carry out a review of higher risk advisers' sales and pay redress where unsuitable sales took place. It is not yet possible to say how much redress will be paid until the firms have identified how many customers are affected.

Customers have a right to expect better from leading financial institutions

FCA FINES SEI INVESTMENTS LIMITED £900,200 FOR CLIENT MONEY BREACHES

The UK Financial Conduct Authority (FCA) has fined SEI Investments Limited (SEI) for failings in relation to its protection of client money. SEI is a provider of asset management and wealth management services.

Under the FCA's client money rules, firms are required to keep client money separate from the firm's money in client bank accounts with trust status.

Firms that undertake client transactions and hold client money should perform daily client money calculations (referred to in the FCA Client Asset Sourcebook (CASS) rules as internal reconciliations) to check that they are segregating the correct amount of client money so that in the event of the firm's insolvency, client money is returned to clients as quickly and easily as possible.

Between November 2007 and October 2012, SEI failed on several occasions to perform its internal reconciliations, failed on several occasions to ensure that any shortfall or excess identified in its internal reconciliation of client money was paid into or withdrawn from the client bank account by close of business on the day of the internal reconciliation, and failed to appreciate that it was using a non-standard method of internal reconciliation. SEI therefore failed to ensure that it maintained its records and accounts in a way that ensured their accuracy.

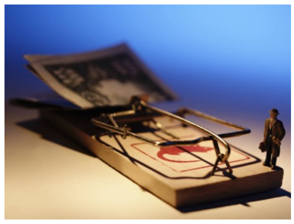
Failings were found throughout SEI's client money processes, indicating that SEI's client money arrangements were inadequate. SEI failed to train employees with operational oversight and responsibility for client money. On one occasion, an SEI employee who had not received any CASS training manually adjusted SEI's client money requirement from the £14 million calculated using the internal client money reconciliation to £932,000, on the basis of his assumption that the £14 million shortfall was of an unprecedented amount and was therefore inaccurate.

Had SEI become insolvent, these failings could have led to complications and delay in distribution and placed client money at risk. The average daily balance of the client money accounts during the relevant period was approximately £84.3m.

Whilst the FCA considers the failings to be serious, there was no actual loss of client money in this instance. However, the rules are designed to be preventative. Had SEI suffered an insolvency event during this period, customers could have suffered loss due to SEI's non-compliance with the Client Money Rules.

SEI has cooperated with the FCA during its investigation, invested in external consultants, and has restructured its operational model.

SEI agreed to settle at an early stage and in doing so it qualified for a 30% discount. Without the settlement discount, the fine would have been £1,286,000



SEI failed to arrange adequate protection for the client money for which it was responsible

SEC CHARGES MERRILL LYNCH WITH MISLEADING INVESTORS IN CDOS

Merrill Lynch marketed complex CDO investments using misleading materials that portrayed an independent process for collateral selection that was in the best interests of the investors. Investors did not have the benefit of knowing that a hedge fund firm with its own interests was heavily involved behind the scenes in selecting the underlying portfolios. The Securities and Exchange Commission charged Merrill Lynch with making faulty disclosures about collateral selection for two collateralized debt obligations (CDO) that it structured and marketed to investors, and maintaining inaccurate books and records for a third CDO. Merrill Lynch agreed to pay $131.8 million to settle the SEC's charges.

EBA AGREES ON DEFINITION OF IDENTIFIED STAFF FOR REMUNERATION PURPOSES

On 13 December 2013, the European Banking Authority (EBA) agreed on its final draft Regulatory Technical Standards (RTS) on criteria to identify categories of staff whose professional activities have a material impact on an institution's risk profile. These identified staff will be subject to provisions related, in particular, to the payment of variable remuneration.

The EBA draft Regulatory Technical Standards (RTS) look at remuneration packages for identified staff categories and aim at ensuring that appropriate incentives for long-term oriented and prudent risk taking are provided.

This will ultimately contribute to supporting financial stability across the EU, as inappropriate incentives for management and employees have often led to short-term oriented and excessively risky strategies.

These draft RTS propose a methodology for identifying staff that is consistent across the EU. They are based on a combination of qualitative and quantitative criteria and will have to be applied by all institutions subject to the Capital Requirements Directive.

As a general principle, staff shall be identified as having a material impact on the institution's risk profile if they meet one or more of the following criteria:

Standard qualitative criteria: related to the role and decision-making power of staff members (e.g. staff is a member of a management body, is a senior manager, has the authority to commit significantly to credit risk exposures, etc.).

Standard quantitative criteria: related to the level of total gross remuneration in absolute or in relative terms. In this respect, staff should be identified if:

- their total remuneration exceeds, in absolute terms, EUR 500,000 per year, or
- they are included in the 0.3 % of staff wit+h the highest remuneration in the institution, or
- their remuneration is equal or greater than the lowest total remuneration of senior management and other risk takers.

Exclusion criteria: the draft RTS allow in justified cases, under additional conditions and subject to supervisory review, the exclusion of staff identified only according to standard quantitative criteria. In this respect, for staff with an awarded total remuneration of EUR 500,000 or more, institutions need to notify exclusions to the competent authority. For staff with a total awarded remuneration of EUR 750,000 or for staff included in the 0.3 % of the highest earners, a prior approval of exclusions is required.

For staff with a total awarded remuneration of EUR 1,000,000 or more competent authorities need to inform the EBA about such intended exclusions before the decision is made. Institutions will have to submit the notification or application and demonstrate that the excluded staff on the basis of the business unit they are working in, as well as of their duties and activities have indeed no material impact on the institution's risk profile.

Inappropriate incentives have often led to short-term oriented and excessively risky strategies.

NETHERLANDS AND US SIGN FATCA AGREEMENT

The governments of the Netherlands and the United States have signed the Intergovernmental Agreement to Improve Tax Compliance and to Implement FATCA. The Netherlands intends to present the agreement to its Parliament for approval in 2014 and to propose implementing legislation with the goal of having the agreement enter into force by September 30, 2015. In the meantime, the United States Department of the Treasury intends to treat each Netherlands financial institution, as defined in the agreement, as complying with, and not subject to withholding under section 1471 of the US Internal Revenue Code .

CIRCULAIRE FSMA-BNB SUR LES EVOLUTIONS RÉCENTES EN MATIERE DE PRÉVENTION DU BLANCHIMENT

La Circulaire, datée du 18 décembre 2013, rassemble et commente plusieurs évolutions récentes relatives à la prévention du blanchiment de capitaux, à savoir:

• la mise en évidence par la CTIF des risques élevés de blanchiment de capitaux associés à certaines opérations sur l'or et les métaux précieux et sur les mouvements importants d'espèces. Il faut relever, à ce propos, que l'interdiction d'acquitter en espèces le prix de la vente par les commerçants de biens ou de services de grande valeur au dessus des seuils fixés par la loi a été complétée par une nouvelle interdiction faite aux commerçants en métaux précieux d'acquitter en espèces le prix des achats qu'ils effectuent au-dessus des mêmes seuils. Lors de la discussion des articles du projet de loi à la Chambre des Représentants, John Crombez, a estimé que la disposition doit être interprétée comme visant aussi les ventes aux établissements financiers, de même que celles bureaux de change.

• l'élargissement du champ d'application de la loi du 11 janvier 1993 du point de vue des infractions sous-jacentes, en particulier dans le domaine de la fraude fiscale. Selon l'exposé des motifs de la loi, la modification adoptée a pour objectif de mettre la définition de la fraude fiscale telle qu'appliquée par la loi, en conformité avec les nouvelles recommandations du GAFI. Selon les travaux préparatoires, il convient de considérer que lorsqu'il y a des indications que de faux documents ont été confectionnés et/ou utilisés dans le cadre de la fraude, lorsque celle-ci porte sur un montant élevé, ou lorsque ce montant est anormal, eu égard aux activités ou à l'état de fortune du client, il y a fraude fiscale grave (voir également la note de la CTIF du 15 novembre 2013).

• la publication au Moniteur Belge de la liste des pays tiers équivalents. Cette liste, établie dans le prolongement du processus d'évaluation de l'équivalence des législations des pays tiers, contient les douze pays suivants: l'Australie, le Brésil, le Canada, Hong Kong, l'Inde, le Japon, la Corée du Sud, le Mexique, Singapour, la Suisse, l'Afrique du Sud et les Etats-Unis.

• la publication au Moniteur Belge de la liste des autorités et organismes publics européens pouvant être considérés comme présentant des risques faibles.

La CTIF pourra s'attaquer au blanchiment de capitaux provenant de la fraude fiscale grave

LA FSMA ENDOSSE LES ORIENTATIONS DE L'ESMA SUR LES POLITIQUES DE RÉMUNÉRATION

L'ESMA a émis, le 11 juin 2013, des Orientations concernant les politiques et pratiques de rémunération. Elles exposent la vision de l'ESMA sur la façon d'appliquer la législation de l'Union européenne en matière de conflits d'intérêts et de règles de conduite relatives aux problématiques de rémunérations.

Ces orientations s'appliquent, à compter du 1er février 2014, aux entreprises d'investissement, y compris les établissements de crédit, aux sociétés de gestion d'OPCVM et aux gestionnaires de fonds d'investissement alternatifs.

Elles visent à garantir une meilleure mise en oeuvre, des exigences actuelles de MiFID en matière de conflits d'intérêts et de règles de conduite relatives aux problématiques de rémunérations. Elles couvrent les dimensions suivantes des politiques et pratiques de rémunération :

• gouvernance et élaboration des politiques de rémunération eu égard aux règles de conduite et de conflits d'intérêts de MiFID ;

• contrôle des risques posés par les politiques et pratiques de rémunération ;

• surveillance par les autorités des politiques et pratiques de rémunération.

La FSMA intègrera ces orientations dans son dispositif de contrôle.

FCA FINES AXA WEALTH SERVICES £1.8M FOR INVESTMENT ADVICE FAILINGS

The Financial Conduct Authority (FCA) has fined AXA Wealth Services Ltd (AXA) £1,802,200 for failing to ensure it gave suitable investment advice to its customers. The failings put a significant number of customers at risk of buying unsuitable products. Many of AXA's shortcomings only came to light during a review by the FCA.

In addition to the fine, AXA has agreed with the FCA to contact all customers who may be affected by its failings and a third party will oversee a review of any issues identified as a result of this exercise. Any customer who suffered loss as a result will be fully compensated and those sold inappropriate products will be able to switch or withdraw their investment.

Currently, customer losses due to AXA's failings may be low due to movements in the stock market since the advice was given.In agreeing with AXA that it will contact customers, the FCA has acted pre-emptively to ensure customers are provided with an opportunity to avoid potential losses during future stock market downturns.

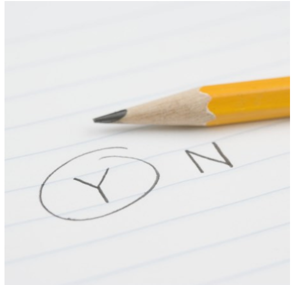
Between 15 September 2010 and 30 April 2012 AXA sold approximately 37,000 investment products to 26,000 retail customers through AXA's advisers based in the branches of Clydesdale Bank, Yorkshire Bank and the West Bromwich Building Society.

These customers, who tended to have low levels of experience in investments and were typically in or nearing retirement, invested £440 million with AXA.

However, the FCA, which has an objective to secure an appropriate degree of protection for consumers, found serious defects in the way AXA advised customers on investments. In particular, AXA did not always:

- Confirm how much risk its customers were prepared to take with their investments and explain in clear terms the level of risk they would be taking.
- Ensure that customers could manage financially if their investment fell in value.
- Gather sufficient information from customers before making investment recommendations to them.
- Advise customers about how product charges would affect the returns they could expect to receive from their investment.
- Properly explain to customers why recommended investments were considered to be suitable for them.

The FCA also found that AXA failed to have effective controls over the bonuses it paid to sales advisers. There was an unacceptable risk of sales advisers making inappropriate investment recommendations to customers in order to qualify for bonus payments.



AXA failed to have an adequate process in place for establishing the level of risk its customers

EIOPA PUBLISHES REPORT ON GOOD SUPERVISORY PRACTICES REGARDING INSURANCE PRODUCTS

The European Insurance and Occupational Pensions Authority (EIOPA) has published a Report on good supervisory practices regarding knowledge and ability of distributors of insurance products. The Report sets out good supervisory practices that competent authorities should apply to all distributors of insurance products. The Report promotes:

- appropriate knowledge and ability for distributors;
- demonstration of ethical and professional conduct at all times and to consider the consumer's best interest in circumstances connected to the contract;
- effective communication to the consumer by using clear and comprehensible language and
- provision of suitable and/or personalised recommendations and adaptation of these to the evolving consumer situation and need.

TRANSPARENCY INTERNATIONAL PUBLISHES PRINCIPLES FOR WHISTLEBLOWER LEGISLATION

It is essential that whistleblowing policies provide accessible disclosure channels for whistleblowers, meaningfully protect them from all forms of retaliation, and ensure that the information they disclose can be used. To help ensure that whistleblowers are afforded proper protection and disclosure opportunities, the principles presented on November 5, 2013 are intented to serve as guidance for formulating new and improving existing whistleblower legislation. These principles should be adapted to individual countries political, social and cultural contexts, and to their existing legal frameworks. They take into account lessons learned from existing laws and have been shaped by input from whistleblower experts, government officials, academia, research institutes and NGOs from all regions. These principles will be updated and refined as experiences with legislation and practices continue to unfold.

INSIDER TRADERS IN HEINZ AGREE TO $5 MILLION SETTLEMENT

The Securities and Exchange Commission announced on October 10, 2013 that two brothers in Brazil have agreed to pay nearly $5 million to settle charges that they were behind suspicious trading in call options for H.J. Heinz Company the day before the company publicly announced its acquisition.

The SEC alleges that the order to purchase the Heinz options was placed by Rodrigo Terpins while he was vacationing at Walt Disney World in Orlando, and the trading was based on material non-public information that he received from his brother Michel Terpins. The trades were made through an account belonging to a Cayman Islands-based entity named Alpine Swift that holds assets for one of their family members. Rodrigo Terpins purchased nearly $90,000 in option positions in Heinz the day before the announcement, and those positions increased dramatically by nearly 2,000 percent the next day.

The timing, size, and profitability of the trades as well as the lack of a prior history of Heinz trading in the Alpine Swift account made the transactions highly suspicious in the wake of the Heinz announcement

The Terpins brothers and Alpine Swift have agreed to disgorge the entire $1,809,857 in illegal profits made from trading Heinz options. The Terpins brothers also will pay $3 million in penalties.

Irregular and highly suspicious options trading is a serious red flag

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