

# REGULATION NEWSLETTER FOR INTERMEDIARIES

Monday 31st August to Friday 4th September

Welcome to the weekly regulation newsletter designed specifically for intermediaries. This newsletter is compiled by IFact Services and includes regulatory and topical information relating to Independent Financial Advisers, General Insurance and Mortgage and Home Finance Advisers.



## Final Notice - FSA takes action against CEO of mortgage network for poor controls over ARs

Financial Services Authority

<http://www.fsa.gov.uk/pages/Library/Communication/PR/2009/114.shtml>

The Financial Services Authority (FSA) has withdrawn the approval for Steven Moorley, director of Premier Network Group Ltd (in liquidation) in Leicestershire, to perform the roles of chief executive and "apportionment and oversight of responsibilities" because it found he lacked the necessary competence and capability. But for Moorley's financial circumstances, the FSA would also have imposed a penalty of £30,000 on him. Moorley failed to manage and control an expanding network of mortgage brokers to acceptable standards. As a result of these failings some of the network's Appointed Representatives (ARs) took advantage of the weak systems and controls by submitting fraudulent mortgage applications and recommending unsuitable mortgage contracts. Moorley also failed to ensure that the network:

- handled complaints in compliance with regulatory requirements;
- submitted complete and accurate information to the FSA in its regulatory returns; and
- took appropriate action when some of its ARs were removed from lenders' panels.

Margaret Cole, FSA director of enforcement, said: "Senior management of authorised networks are responsible for the quality and integrity of financial advice conducted in their names. This case highlights the risks posed by limited control and oversight of Appointed Representatives. Moorley's conduct was particularly serious because it exposed customers to the risk of receiving unsuitable advice and allowed the network to be used by some of its Appointed Representatives to submit fraudulent mortgage applications." The FSA has taken into account that Moorley has been open and cooperative with the FSA's investigation, that he accepted that there were management and control failures, and that the network ceased conducting new business to mitigate any ongoing risk to customers. The FSA would also have imposed a financial penalty of £30,000 on Moorley but for evidence that imposing such a financial penalty would have caused him financial difficulty and threatened his solvency.

## Final Notice - Iqbal Saleem (trading as ISN Financial Services)

Financial Services Authority

[http://www.fsa.gov.uk/pubs/final/iqbal\\_saleem.pdf](http://www.fsa.gov.uk/pubs/final/iqbal_saleem.pdf)

The FSA has issued a Final Notice to the above cancelling their permissions. In addition to its obligation to cancel their permission, the FSA also considered that cancellation was necessary because they repeatedly failed to comply with the regulatory requirement to submit Retail Mediation Activities Returns promptly, or at all, including the RMARs for the periods ended 5 April 2008 and 5 October 2008, which remain outstanding. The firm was referred to the FSA's Enforcement Division on three separate occasions for these failings. The firm has therefore failed to satisfy the FSA that they are conducting their business soundly and prudently and in compliance with proper standards as required by Threshold Condition 5 (Suitability). For full details, click on the link above.

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## Final Notice - FSA fines broker for failing to prevent insider dealing

Financial Services Authority

<http://www.fsa.gov.uk/pages/Library/Communication/PR/2009/115.shtml>

The Financial Services Authority (FSA) has fined Mark Lockwood, a former trading desk manager at a retail stockbroking firm, £20,000 for failing to observe proper standards of market conduct. Lockwood failed to identify and act on a suspicious client order that allowed the firm to be used to facilitate insider dealing. As a result of his failings the firm failed to identify the trade as suspicious and report it to the FSA.

Lockwood's misconduct related to his dealings with a client who sold shares in oil and gas exploration company Amerisur on 23 May 2007 - ahead of an announcement by the company of a placing of shares the next day. The client has been subject to separate FSA enforcement action for market abuse in relation to Amerisur shares. Lockwood failed to identify that the transaction was being conducted on the basis of inside information, despite his own knowledge of the impending transaction and clear warning signals from the client. He failed to prevent the trade or alert his firm to the possibility that the trade was being conducted on the basis of inside information. As a result no Suspicious Transaction Report (STR) was submitted to the FSA and the trading only came to light because of a report submitted by another broker.

Margaret Cole, FSA director of enforcement division, said: "This fine emphasises the importance of the Suspicious Transaction Reporting regime. Tackling market abuse and insider dealing is not just an issue for the regulator. Broking firms are the front line of defence against people who seek to misuse and profit from their possession of privileged information. STRs are a key tool for the FSA in detecting market abuse. Lockwood's failure could have meant that this incident went undetected and unpunished. Approved persons should be in no doubt as to their responsibilities in this area and the FSA will not hesitate to take action where they fall down on these."

## Final Notice - Mortgages Plus (UK) Limited

Financial Services Authority

[http://www.fsa.gov.uk/pubs/final/mortgages\\_plus.pdf](http://www.fsa.gov.uk/pubs/final/mortgages_plus.pdf)

The FSA has issued a Final Notice to the above cancelling their permissions. The FSA has concluded that it appears that Mortgages Plus was failing to satisfy the threshold conditions. Specifically, Mortgages Plus failed to notify the FSA of a change in the address of its principal place of business. The FSA has no current, valid contact information for Mortgages Plus, therefore the FSA has no means of communicating with it. These failures, which are significant in the context of Mortgages Plus' suitability, lead the FSA to conclude that Mortgages Plus is not conducting its business soundly and prudently, and in compliance with proper standards, that it is not a fit and proper person, and that it is therefore failing to satisfy the Threshold Conditions in relation to the regulated activities for which it has Part IV permission.

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## Financial Advisers - Review of SIPP operators - case studies

Financial Services Authority

[http://www.fsa.gov.uk/smallfirms/your\\_firm\\_type/financial/resources\\_for/sipp.shtml](http://www.fsa.gov.uk/smallfirms/your_firm_type/financial/resources_for/sipp.shtml)

The FSA has published new web pages providing details of their thematic review of SIPP operators. In December 2008, the FSA began a review of small SIPP operators to determine the extent to which they are adhering to the FSA's principles and rules. Most small SIPP operators do not give SIPP or investment advice. Their role is to run SIPP schemes and administer investments and benefits on behalf of their clients.

**SIPP operator review** - The FSA contacted approximately 60 firms in December 2008, asking them to complete and return a questionnaire covering a broad range of SIPP operator activities. Of these firms, approximately 50% were selected for a telephone assessment, and some were subsequently visited.

**Actions the FSA has taken as a result** - The FSA has written to the senior management of every small SIPP operator, explaining their findings, in particular in the areas of Treating Customers Fairly (TCF), relationships with firms that give SIPP advice, systems and controls, disclosure of fees and charges, and the production of illustrations.

The FSA's findings will be of interest to any firm that operates or is considering operating a SIPP, as well as to firms that give investment advice on SIPPs and members of the public whose SIPP is administered by a SIPP operator. The FSA has also produced a factsheet which summarises the standards all SIPP operators should be achieving and the rules they should follow. Click on the link above to view the full report, factsheets and case studies.

## Complaints - FSA publishes industry-level complaints data to increase transparency

Financial Services Authority

<http://www.fsa.gov.uk/pages/Library/Communication/PR/2009/116.shtml>

The Financial Services Authority (FSA) has for the first time published aggregate figures showing how many complaints regulated firms have received and how they have dealt with them. As part of the FSA's wider commitment to publishing more information about firms and industry sectors, this data covers:

- the volume of complaints firms have received, by product type and cause of the complaint, e.g. delays and misleading advice; and
- how firms have handled complaints, including the speed of complaints-handling and the proportion of complaints that have been upheld by firms.

The data published covers 2006-2008 and indicates that the overall number of complaints has increased by 5.7% over this period. The speed of firms' complaints handling and the proportion of complaints upheld by firms remained fairly stable over the period - at the end of 2008, 10% of complaints took longer than eight weeks to resolve and 40% of complaints were decided in customers' favour. Dan Waters, the FSA's director of retail policy and conduct risk, said: "Transparency is an important regulatory tool. Publishing this information will mean that consumers and firms can now see how many complaints the industry receives and how it deals with them. This is stage one of our drive to say more about how the industry handles complaints and builds on our recent proposals, currently out for consultation, about the publication of firm-specific data. We expect firms to treat customers fairly by dealing with complaints promptly and efficiently. We are focusing even more attention, particularly through intensive supervision, on ensuring that firms are dealing with complaints properly."

The FSA plans to publish aggregate data covering the first half of 2009 in October, and will then publish updates every six months after that. This industry-level information complements the FSA's proposals to publish firm-specific complaints data, set out in July, which would enable people to see how individual firms are handling complaints.

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## Consumer Research - The impact of life events on financial capability: Evidence from the BHPS

Financial Services Authority

<http://www.fsa.gov.uk/pubs/consumer-research/crpr79.pdf>

This report summarises analysis of the impact of life events on financial capability. The project focuses on the characteristics of individuals and the households in which they live that determine their ability to manage and take control of their finances (their 'financial capability'). In this work data was used from the British Household Panel Survey (BHPS) to construct indices of financial capability based on the hypothesis that there is some underlying factor (financial capability) which is better captured by reviewing a range of indicators of a person's current financial situation than by any of the specific items of information. The report describes how financial capability varies according to individual and household characteristics, and then examine in detail which factors determine financial capability using multivariate statistical models.

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