

REGULATION NEWSLETTER FOR INTERMEDIARIES

Monday 23rd to Friday 27th March 2009

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 Advisers.



Final Notice - FSA censures broker for advice failings on self-certified mortgages

Financial Services Authority

<http://www.fsa.gov.uk/pages/Library/Communication/PR/2009/041.shtml>

The Financial Services Authority (FSA) has publicly censured Doncaster mortgage broking firm Mortgages Remortgages Ltd ('the firm') for failing to ensure it provided suitable advice and exposing up to 80 of its customers to the risk of being sold an unsuitable self-certified mortgage. The case arose from an FSA thematic project looking at the sale of self-certified mortgages.

Between January 2006 and April 2008 the firm failed to make appropriate enquiries about customers' source of income, expenditure, credit history and debt position, so that it could properly assess the affordability of its recommendations; and failed to demonstrate the plausibility of customers' declared income and expenditure.

Georgina Philippou, head of retail enforcement at the FSA, said: "At all times, and especially in times of economic difficulty, mortgage brokers need to give suitable advice to ensure that customers are not unduly exposed to financial hardship in the future. This is especially important in firms like Mortgages Remortgages who specialise in self-certified mortgages and advise customers who are consolidating debts or have adverse credit histories. The firm's failings exposed its customers to potentially significant financial detriment by failing to give proper consideration to the long term implications of the products recommended in relation to their financial circumstances."

The FSA has taken into account the fact that the firm has agreed to undertake a customer contact and remediation exercise. In determining the penalty, the FSA has had regard to the financial position of the firm. Were it not for this, and the fact that the firm needs to be able to pay for the customer contact and remediation exercise, the FSA would have sought to impose a financial penalty of £20,000.

Speech - The Turner Review Conference

Financial Services Authority

http://www.fsa.gov.uk/pages/Library/Communication/Speeches/2009/0327_at.shtml

Speech by Adair Turner, Chairman, FSA. This speech is designed to identify where there is consensus and where areas of debate by concentrating on the issues which are fundamental or where there are important open issues.

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Speech - Regulatory Challenges for Fund Managers

Financial Services Authority

http://www.fsa.gov.uk/pages/Library/Communication/Speeches/2009/0324_dw.shtml

Speech by Dan Waters, FSA Asset Management Sector Leader, FSA - Future of Fund Management Conference. This speech covers three broad areas (1) a high level overview of the Turner Review, focusing on proposals of relevance and interest to fund managers; (2) FSA's view on the appropriate regulatory framework for hedge funds, and (3) comments on two regulatory "business-as-usual" issues for fund managers: producing ICAAPs and managing liquidity in open-ended funds.

Speech - Lessons from the Financial Crisis

Financial Services Authority

http://www.fsa.gov.uk/pages/Library/Communication/Speeches/2009/0324_yr.shtml

Speech by Verena Ross, Director of Strategy and Risk, Chatham House conference on Global Financial Regulation. The speech focuses on the Lessons Learned from the Financial Crisis.

Press Release - Solicitor and his father-in-law found guilty in FSA insider dealing case

Financial Services Authority

<http://www.fsa.gov.uk/pages/Library/Communication/PR/2009/042.shtml>

Mr Christopher McQuoid, a solicitor, and his father-in-law, Mr James William Melbourne were found guilty of insider dealing. The case was heard at Southwark Crown Court and is the first insider dealing criminal prosecution brought by the Financial Services Authority (FSA), as part of its tougher approach to tackling market abuse. The jury found that Mr McQuoid had passed inside information to his father-in-law and that Mr Melbourne had traded, and made a profit, using the information. The FSA has also obtained a court order freezing the profits made from the trade, which Mr McQuoid and his father-in-law split equally between them.

Commenting on the verdict, Margaret Cole, director of enforcement at the FSA, said: "By pursuing a criminal prosecution in this case, the FSA has shown that we will take tough action to achieve our aim of credible deterrence in the financial markets. Mr McQuoid took advantage of the trust placed in him as TTP's legal counsel, and with his father-in-law, has been found guilty of cheating the market. Anyone engaging in similar acts should see this as a clear warning that the FSA intends to bring all its powers to bear to protect the integrity of our markets."

Mr McQuoid was the general counsel at TTP Communications (TTP) from August 2000 to March 2007. In May 2006, he was told in confidence that Motorola was planning to take over the company. Two days before the takeover was made public, his father-in-law, Mr Melbourne bought 153,824 TTP shares at 13 pence a share. Mr Melbourne had not dealt in any shares recently or ever bought TTP shares. On 1 June, the takeover was announced at an agreed share price of 45 pence. As a result of the price increase, Mr Melbourne made a profit of £48,919.20. Three months later, he gave Mr McQuoid a cheque for £24,459.60 exactly half of the profit made from the TTP shares trade. The suspicious trading was reported to the FSA as required under its rules. The sentencing hearing for Mr McQuoid and Mr Melbourne will take place on Monday, 30 March. The FSA is currently prosecuting three other insider dealing criminal cases.

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One minute guide - Mortgage market review and FSA mortgage conference

Financial Services Authority

http://www.fsa.gov.uk/smallfirms/resources/one_minute_guides/64_mortgage_rvw.shtml

FSA are currently working on their review of regulation for the mortgage market. The review:

- * covers the whole of the market - consumers, brokers and lenders
- * includes all aspects of regulation, including conduct of business, prudential standards and financial crime
- * will look at whether the proposals made by the retail distribution review for the investment market should apply to the mortgage market.

Mortgage conference - FSA's mortgage sector conference in London on 12 May will set out some of their initial thinking and is a chance for firms to get involved in the debate. Publication of review paper - FSA plan is to publish a paper in September 2009 setting out the future shape of regulation and how their approach should evolve to reflect this.

From the FSC - Feedback Statement on Resilience Benchmarking

Other Items of Interest

<http://www.fsc.gov.uk/section.asp?catid=7&docid=2415>

When the Financial Services Authority undertook the first Resilience Benchmarking project in 2005, the UK Financial Sector Continuity (FSC) sought to answer three main questions:

- How resilient would the UK financial system be if faced with a major operational disruption?
- How quickly could it recover?
- What needed to be done to improve its resilience?

In 2008, FSC assessed progress since 2005 and identified new issues that needed to be addressed. In June 2008, the Tripartite Authorities published their high level findings in a Discussion Paper. The main points on which comments were invited were:

- Are there vulnerable areas in the financial system which still do not have sufficient mitigants?
- What does it take to bring about a corporate culture and policies that support business continuity and crisis management objectives?
- Are firms content for the recovery-time targets set in 2005 for core firms and infrastructure providers to remain in place? Should these targets be extended to apply to a broader range of firms?

Responses were broadly supportive of the conclusions and proposals set out in the discussion paper, but gave insufficient material to produce a detailed feedback report. The Tripartite Authorities have published a short statement summarising the main areas of feedback which can be viewed by clicking on the link above.

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From CIFAS - Fraud figures reveal some interesting gender patterns

Other Items of Interest

http://www.cifas.org.uk/default.asp?edit_id=898-57

If men truly are from Mars and women from Venus, then figures from CIFAS - The UK's Fraud Prevention Service - confirm this by showing some remarkable differences between the sexes when it comes to fraud. Most fraudsters, across the spectrum of cases filed by CIFAS Members, are men. In addition, some noticeable patterns emerge. Female fraudsters are most commonly seen in frauds involving mail order accounts, whereas the male fraudster is most prevalent in frauds involving asset finance or insurance.

Sandra Peaston, CIFAS Research Manager, comments: "This demonstrates some peculiar over-arching trends, with the proportion of female fraudsters being most often noted in mail order, communications and loan frauds. Similarly, the vast majority of male fraudsters in the areas of asset finance and insurance may go some way to demonstrate that it really is a case of 'boys and their toys!'"

An examination of the CIFAS Staff Fraud Database, however, shows a different balance, with over 40% of staff fraudsters being women. Furthermore, these figures reveal that male fraudsters are typically employed for a shorter period of time than their female equivalents. CIFAS Staff Fraud Adviser, Arjun Medhi, notes that "the threat of staff fraud is much less gender specific than financial fraud. The longer period of employment for female fraudsters, interestingly, highlights an apparent different modus operandi between the sexes. Women seem either to wait longer before attempting to defraud their employers, or are able to disguise their activities better."

Richard Hurley, CIFAS Communications Manager, concludes: "These figures might go some way to show how the 'difference between the sexes' is manifested in unexpected ways. What should never be forgotten, however, is the damage that any of these actions will cause - irrespective of gender - in terms of financial loss and professional reputation."

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