

COMPLIANCE UPDATER

Regulatory and compliance news in brief

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Swiss v EU spat – is this a signal for the post-Brexit world?

Swiss regulators have placed a ban on the trading of Swiss equities on EU exchanges after the European Commission allowed discussions on reaching an 'equivalence' decision to expire. From 1 July Swiss shares can only be traded on the Zurich exchange through a recognised broker. The impasse also means that Swiss traders lost their access to EU-based stock exchanges from the same date. It is thought the EU's line hardened in the light of negotiations with the UK, where there is the possibility of an equivalence status for financial services post-Brexit.

Orcel set to sue Santander for €100m.

Andrea Orcel is set to sue Spanish bank Santander €100m after the bank withdrew its offer to make him Chief Executive. Santander offered to hire Mr Orcel as Chief Executive earlier in 2019 and he quit his job at UBS, but Santander withdrew the offer whilst he was on gardening leave. The public reason for the withdrawn offer was that Santander could not justify paying Mr Orcel a signing on package worth €50m. The €100m claim represents potential earnings Mr Orcel missed out on, plus legal fees and other costs.

UK's FCA plans ban on bitcoin derivatives for retail investors.

A paper from the UK's Financial Conduct Authority (FCA) plans to ban the sale or marketing of derivatives linked to crypto assets such as bitcoin and ethereum in early 2020. The decision follows a study that concluded cryptocurrencies could not be valued easily – one example found two analysts using the same pricing model arriving at bitcoin values of \$20 and \$8,000. The ban will apply to futures, options, contracts for differences and exchange traded notes.

Danske claimed to have sought to discredit whistleblower.

The US lawyer for Howard Wilkinson – the whistleblower who exposed Danske Bank's €200bn money laundering scandal through its Estonian branch – claims the Danish lender undertook an internal inquiry in an effort to discredit and blackmail Mr Wilkinson into silence. The lawyer is calling on Danish prosecutors to launch a criminal investigation into the matter.

FCA reveals suspicious trades in 2018.

The annual report from the FCA revealed that insider trading occurred before 10% of takeover announcements in the UK in 2018. This was a marked fall from the 22% in 2017.

UK and France press ahead with 'digital tax' plans.

The UK and France moved further on their plans for a 'digital tax' on the big technology companies. Senators in France gave final approval to a unilateral tax on turnover – 3% on those digital companies with revenues of more than €750m globally and €25m in France. The change will impact around thirty companies including US groups Alphabet, Apple, Facebook and Amazon. The proposed UK digital services tax is similar – a 2% levy on the revenues of search engines, social media platforms and online marketplaces serving UK customers. It will be applied to companies with global revenues in excess of £500m and £25m from UK activities.

Deutsche to pay €175m to settle Dutch bribery lawsuit.

Deutsche Bank agreed to pay €175m to settle a lawsuit from a Dutch housing association called Vestia that claimed the bank bribed its treasurer to buy derivatives that bought the association close to collapse. Derivatives exposure involving a notional principal of almost €3bn as hedges against interest rates generated €114m profit for Deutsche. The treasurer at Vestia pocketed half of an intermediary's €3.5m in commission as well as entertainment from Deutsche that included international cricket, hotels, meals and nightclubs. Deutsche settled without any admission of liability.

BA hit with record data breach fine.

British Airways was fined £183m (1.5% of its 2017 turnover) by the UK's Information Commissioner after hackers stole data from more than five-hundred thousand customers. The size of the fine – the biggest ever under the recently introduced European-wide General Data Protection Regulation (GDPR) – will send out a significant warning to other companies.

First UK UWO re serious organised crime.

The third Unexplained Wealth Order (UWO) issued by the UK's National Crime Agency has been deployed against suspected involvement in organised crime after the previous two UWOs had been directed at politically exposed persons. The first UWO, which requires revealing the source of funds, was directed against the wife of a former central banker in Azerbaijan. The second was against an unidentified politically exposed owner of £80m worth of London property. The third order is against a businessman from the north of England who must reveal the source of the funds that kick-started his £10m property empire.

StanChart accused by whistleblowers.

Two whistleblowers allege Standard Chartered cleared far more transactions in violation of sanctions on Iran than those that formed the basis of the \$1.1bn settlement with the US authorities in April 2019. Whistleblowers are allowed to sue on behalf of the US government and share in the proceeds if the claims hold up.

FCA's slipping performance on complaints.

The FCA's performance in handling complaints has 'slipped significantly' according to a report from the Office of the Complaints Commissioner. The FCA's response said it aimed to deal with most complaints within eight weeks, and that the apparent slippage was down to deferring complaints around significant scandals, such as the collapse of London Capital and Finance, where regulatory and criminal probes were ongoing.

Equifax agrees near \$800m settlement for data breach.

Credit reporting company Equifax that suffered a major data breach that exposed the personal data of 150m people in July 2019 agreed a settlement with the US authorities. It will pay \$380m into a fund to compensate affected consumers, \$290m in penalties and make available a further \$125m for the fund if it is needed. The potential total of \$795m reflects the fact that the company 'failed to take basic steps' to protect what became 'a major data breach'.

UBS loses fight to stop French tax authorities seeing client data.

The Federal Court in Switzerland ruled in favour of the Swiss tax authority allowing it to share data on UBS clients with its French counterparts. The information relates to 40,000 mostly high net worth UBS banking clients who are resident or previously resident in France. The decision is likely to cause upset amongst Switzerland's private banks and their clients.

European class action against five banks.

Five banks accused of foreign exchange manipulation are facing a European version of a class action lawsuit in London. The claim alleges that Barclays, Citibank, RBS, JPMorgan and UBS unlawfully manipulated the foreign exchange market prices between 2007 and 2013. UK resident investors and non-UK investors are able to join in the action if they participated in institutional foreign exchange trading. Compensation could run into billions of dollars.

Deutsche to investigate compliance blunder.

Deutsche Bank is to investigate a compliance mishap that saw around fifty traders still able to access their emails and the bank's systems after being sacked. Deutsche is at the early stage of a major restructuring that will see around eighteen-thousand leave as it abandons its attempt to break into the top ranks of Wall Street. An internal investigation is examining whether price-sensitive data was accessed.

FCA orders currency house to stop all regulated activity.

The UK's FCA has ordered Ipagoo, a provider of online multicurrency accounts, to stop all regulated activity. The order comes over worries surrounding Ipagoo's ability to segregate client money.

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