COMPLIANCE UPDATER

Regulatory and compliance news in brief Issue: February 2019

EU accuses eight banks of rigging the eurozone bond market.

EU antitrust authorities have sent formal charge sheets to eight unnamed banks alleging that their traders exchanged information and co-ordinated trading strategies in the €7tn market for eurozone government bonds. The charges relate to the period between 2007 and 2012. The traders are said to have engaged in a 'collusive scheme that aimed at distorting competition' using online chatrooms. The regulator has the power to fine companies up to 10% of their annual turnover for breaching antitrust rules.

Brexit certainty reached on delegated fund management.

The European Securities and Markets Authority (ESMA) co-ordinated a deal that will help protect the UK's asset managers in the event of a no-deal Brexit. Many European funds, domiciled in places like Ireland and Luxembourg, delegate their fund management to UK-based portfolio managers. Under UCITS rules, delegation to non-EU managers can only take place where there is a co-operation agreement between the EU regulator and the regulator of the manager. The deal between the EU 27 national regulators and the UK's FCA means delegation to the UK will be acceptable, even in a Brexit no-deal scenario.

MiFID II results in new entrant into corporate broking sector.

M&A specialists Rothschild is launching an investor advisory service to corporates that will see it take on a role traditionally provided by corporate brokers. The service will help companies deal more effectively with their investor base, especially activists. Rothschild's entry is opportunistic – traditionally corporate broking was provided by large banks for no charge in the expectation of securing fundraising mandates. MiFID II's requirement that services are unbundled and separately charged for has meant Rothschild feels it can compete effectively.

Australia's Royal Commission report into financial services is published.

Australia published its Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, revealing how firms and their leaders had ripped off consumers for years for profit and personal gain. Commonwealth Bank of Australia, AMP and ANZ are amongst those referred to the conduct regulator – the Australian Securities and Investments Commission – or the prudential regulator – the Australian Prudential Regulation Authority. National Australia Bank was singled out for particular criticism. The report recommends barring certain types of commission paid to brokers and financial advisers to remove conflicts of interest and overhaul regulation over culture and remuneration structures.

FCA tells asset managers to increase disclosures.

The UK's Financial Conduct Authority (FCA) is introducing tighter and deeper disclosures about funds' objectives, benchmarks and fees to counter concerns about so-called closet trackers. Closet trackers are funds that charge high fees for active management but closely track an index. The new requirements will be introduced in May for new funds and August for existing funds.

Former Newton fund manager fined for collusion in IPO.

The UK's Financial Conduct Authority fined a former fund manager at Newton Investment Management £32,000 for attempting to harness "collective power" and bring down the price of the shares in the initial public offer (IPO) of online holiday retailer On the Beach Group. Paul Stephany set an email to fourteen fund managers at other firms urging them to reduce the amount they were willing to pay for the shares.

Wirecard's Singapore office raided by the police.

The Singapore office of German fintech company Wirecard was raided by police seizing electronic equipment including laptops. The company is suspected of 'cooking the books' using forged and backdated contracts.

Europe licence backlogs as a result of Brexit.

Australian bank Macquarie flagged up the current backlog of regulatory licence applications at EU financial centres excluding London as a result of Brexit. Macquarie warned that it might not receive licences for Ireland and Luxembourg until the second quarter of 2019 – after the UK may have crashed out of the EU without a transition deal.

Senior Apple lawyer in US charged with insider trading.

Apple's former senior director of corporate law is facing charges of exploiting his position to trade Apple shares during blackout periods prior to earnings announcements. It is alleged that in 2015 the lawyer sold $10m of Apple stock after being given details of Apple's failure to meet analysts' estimates for iPhone sales shortly before the news was released and Apple stock fell 4%. In an earlier incident the lawyer is alleged to have bought $1m of Apple stock one week before a positive earnings release, selling them for a $60,000 profit within hours of the release.

GAM fires star bond trader for gross misconduct.

After an internal investigation uncovered 'gross misconduct', Swiss fund manager GAM fired a London-based top bond trader. The misconduct included a failure to do sufficient due diligence, breaches of GAM's gifts and entertainment policy and using personal email for work purposes.

ESMA hands one-year licences to London clearing houses.

To prevent problems if the UK collapses out of the EU with a no-deal Brexit next month, the European Securities and Markets Authority (ESMA) handed London's trio of clearing houses (LCH, ICE Clear Europe and LME Clear) one-year licences that will enable them to continue to settle and clear derivatives trades for the remaining EU 27 countries regardless of the Brexit outcome.

ESMA product intervention cripples CFD profits.

London-listed Israeli online gambling specialist Plus 500 lost one third of its market value after issuing a profit warning. The fall in profits was largely due to the European Securities and Markets Authority (ESMA) putting in place an emergency product intervention on retail trading of contracts for difference (CFDs). The intervention began in August 2018 for six months and has been extended for a further three months beginning February 2019. The intervention reduced the potential for leverage by retail clients, increased margin requirements and required more risk warnings.

UBS faces €4.5bn penalty for assisting tax evasion by wealthy clients in France.

UBS was found guilty of laundering the proceeds of tax evasion and breaking laws on soliciting French clients in a court in Paris. The bank has been ordered to pay €3.7bn as a fine and an additional €800m in damages. The prosecutors claimed UBS bankers had used self-erasing hard drives, business cards without logos and evasive tactics to illegally enlist clients at corporate events. UBS plans to appeal against the judgement.

Irish GDPR inquiries into US large tech groups.

Four US technology companies with their European headquarters in Ireland are subject to formal inquiries into possible infringements of the General Data Protection Regulation (GDPR) – the EU-wide regulations that came into force in May 2018. The four companies are Facebook (including WhatsApp and Instagram) that is subject to ten inquiries, Twitter that is subject to three inquiries, Apple that is subject to two inquiries and LinkedIn that is subject to a single inquiry. The worst case fines under the GDPR are a €20m penalty or up to 4% of annual worldwide revenues.

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