COMPLIANCE UPDATER

Regulatory and compliance news in brief | Issue: August 2019

Global regulators' privacy worries over Facebook cryptocurrency.

A joint statement from data protection officials in the US, EU, UK, Australia and Canada raised concerns over the privacy risks of Facebook's planned digital currency 'Libra'. Facebook is planning to launch a low-cost digital currency alongside twenty-seven other companies including Visa, Mastercard, Uber and Spotify by the end of 2019. The concerns relate to how Facebook will store, handle and perhaps share personal data on users that are likely to be in the millions.

Malaysia charges seventeen Goldman staff over 1MDB scandal.

Seventeen current and former staff at Goldman Sachs are facing criminal charges in Malaysia over the 1MDB scandal. Goldman underwrote a series of bond issues for 1MDB, a state investment fund, in 2012 and 2013 that raised $6.5bn for the fund, much of which is thought to have been stolen. The individuals are accused of misleading 1MDB bond investors under the provisions of the Capital Markets and Services Act which allows senior staff to be held responsible for offences committed by their organisations. Most of the seventeen face four charges, each of which carry the potential for up to ten years in jail.

Allegations of market manipulation against short seller Muddy Waters.

Hedge fund Muddy Waters faces allegations of involvement in market manipulation in its activities relating to a listed litigation specialist Burford Capital. Muddy Waters posted on Twitter that it would be taking a short position in an unnamed company on 6th August, then released a report on Burford on 7th August that accused it of being a 'poor business masquerading as a great one'. It appears that Muddy Waters had already taken a short position before the initial tweet, reduced the position on the same day as the tweet and then reduced it further after the report was released.

Claims of a $38bn fraud at GE.

The financial investigator that first warned of Bernard Madoff's Ponzi scheme alleges that GE is hiding an accounting fraud 'bigger than Enron and WorldCom combined'. Harry Markopolos believes GE is 'a bankruptcy waiting to happen'. GE accused Mr Markopolos of market manipulation.

Should ‘shareholders first’ be reassessed? Should private equity be more accessible?

The summer lull provided the opportunity for the financial press and others to suggest how current regulatory restrictions might be adjusted to achieve better outcomes. Two particular themes emerged from the US:

1) Should companies abandon the mantra of ‘shareholders first’?
   The Business Roundtable, an association of leading US CEOs, put forward the case for repudiating a singular focus on the interests of shareholders and replacing it with a pledge to deliver value to all stakeholders.
2) Should private equity be made more accessible to retail investors?
   With companies in the US receiving twice as much investment ($2.9tn in the last year) as the public equity and debt markets, and returns that have significantly outperformed the S&P500 in recent decades, it was proposed that it may be time to make it easier for retail investors to access private equity. This could be done using listed, closed ended fund of fund vehicles.

Relaxing rules for Norway’s $1 trillion sovereign wealth fund.

Underlining the case for investing in private equity, Norway’s $1tn sovereign wealth fund may soon be allowed to hold up to 1% of its equity portfolio in unlisted companies. The fund has so far been limited to investing in listed companies, with a limited exception for unlisted businesses with ‘an intention of floating’. The proposed change will widen the exception to ‘large companies that are not listed’.

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