

November Newsletter
Issue 2/2008

Editorial

The judgement against a MLRO shows that the FSA will take action against a MLRO who is not carrying out his responsibilities adequately. In view of the changes to SYSC that take effect in April 2009 all firms and MLROs need to be aware of their responsibilities in assessing the money laundering risks associated with their clients and agents.

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Further information on the issues in this newsletter, or any other issues which concern your business, can be obtained from
Chris Keene on
020 7369 5375 /
07775 610006

FSA fines firm and MLRO for money laundering controls failings

The Financial Services Authority (FSA) has fined Sindicatum Holdings Limited (SHL) £49,000 and its money laundering reporting officer (MLRO), Michael Wheelhouse, £17,500 for not having adequate anti-money laundering systems and controls in place for verifying and recording clients' identities. This is the first time the FSA has fined a money laundering reporting officer.

The FSA found a number of failings including:

- the firm failed to implement adequate procedures for verifying the identity of its clients;
- it failed to verify adequately the identity of a significant number of its clients;
- it failed to keep adequate records with regard to the verification of the identity of its clients; and
- Mr Wheelhouse failed to take reasonable steps to implement adequate procedures for controlling money laundering risk.

Firms should note that whilst Sindicatum is not an insurance entity the judgement does provide interesting pointers from the FSA on its expectation of internal processes and assessing the ML risk posed when taking on a new client, particularly from "less transparent jurisdictions". The FSA did note that the breaches were identified by the FSA and not the firm, which could highlight weaknesses in the firm's internal control environment.

New London market trade association

It has been confirmed that there will be a new independent trade association for all London and international insurance and re-insurance brokers. The new association will be known as LIIBA. It was felt that Lloyd's brokers would be better served by a dedicated trade association which would be focussed on their needs, separate of BIBA. BIBA will continue to represent the UK domestic market. Brokers will benefit from choosing to join either or both associations and therefore pay for only the services that they need.

It is believed that this change will enable LIIBA to better represent the interest of London market brokers in dealing with bodies such as the Government, Lloyd's, the LUA, the FSA and international bodies.

BIBA will continue to have a London region and that committee will continue to be known as the London Market Brokers Committee. However the focus will be on UK domestic business on a both wholesale and direct basis.

The intention is that the new organisation will set its membership subscription at a reduced percentage of the total BIBA and Angerstein Fund contribution.

Alliance and Leicester fine

The FSA has fined Alliance & Leicester Plc (A&L) £7 million for serious failings in its telephone sales of payment protection insurance (PPI).

For three years from January 2005 to December 2007 A&L sold approximately 210,000 PPI policies to customers seeking a personal loan at an average price of £1,265, but there was a general failure by advisers to give customers details of the cost of

PPI. In addition A&L sought to find reasons to sell PPI without properly considering what customers needed.

FSA update on Payment Protection Insurance (PPI)

In an update on its thematic review of sale of Payment Protection Insurance the FSA has set out that, due to the poor findings from its recent work, it is escalating its regulatory intervention.

The FSA will consider the action it will take to deal with ongoing non-compliant sales practices and consider actions to identify and remedy non-compliant past sales, using a range of regulatory powers at its disposal.

The FSA's work on PPI included a mystery shopping programme that captured customer experiences of face-to-face branch sales of single premium PPI when sold alongside an unsecured personal loan. The results showed:

- very few customers were told that the cost of the payment protection would be added to the loan as a single premium and that interest would be charged on this amount;
- only half of customers said that they were told about the key limitations and exclusions of the policy - this is fundamental to establishing a customer's need and eligibility; and
- many customers were not told of both the monthly cost and total cost of their PPI - at the worst performing firms very few customers were given adequate information on the cost of their policy.

Mortgage broker fines

The FSA has fined two directors from Abbey Mortgages Limited, based in Bexleyheath and Stokesley, £30,000 each for shortcomings in their

mortgage business which put financially vulnerable customers at risk and the firm at risk of being used for mortgage fraud.

A review of self certified mortgages sold between June 2006 and June 2007 found that both directors had fallen short of the standards expected by the FSA.

The two directors failed to check whether their customers had provided them with accurate information. They also neglected to check the affordability and suitability of recommended mortgage contracts, exposing their customers to the risk of receiving unsuitable advice.

Speech by Hector Sants

Recently Hector Sants, Chief Executive of the FSA made a speech entitled 'Regulation & Entrepreneurs' - What is the role of regulation in facilitating the development of innovation & entrepreneurs. We have copied a section that we thought would be useful so that firms can get an idea of the FSA's approach to regulation of smaller firms.

Help for small firms and reducing unnecessary burdens

"We are well aware that regulation places costs on firms – in time, money and other resources. And we are also well aware that these costs are felt more keenly by smaller firms with fewer staff. No regulator is able to escape this fact, and I want to reassure you that we try to keep these costs to a minimum. We are committed to operating as efficiently as possible while fulfilling our duties to protect consumers and maintain market confidence.

We are always looking to improve how we run our business. And we continue to provide extensive regulatory support and help for small firms. This includes our free roadshows and surgeries, our contact centre which deals with thousands of

regulatory questions from small firms each year, and the wide range of help on our website tailored for small firms."

Proposed increase in PI limits for insurance intermediaries

In its quarterly consultation CP08/16, the FSA is proposing to raise the minimum levels of PI cover for insurance intermediaries. In accordance with Article 4(7) of the IMD the FSA is required to review the PII indemnity limits to keep them in line with the European Index of Consumer Prices (EICP) every five years. Since the IMD was introduced the EICP has risen by 12.02%. Therefore the limits must be raised as follows:

- €1,120,200 for a single claim (currently €1 million); and
- €1,680,300 in aggregate (currently €1.5 million)

The FSA expects these changes to take place with effect from 1 March 2009.

Insurance broker banned

The FSA has banned Lancashire broker Neil McKay after finding that he cancelled contracts of insurance without customers' knowledge or approval, and failed to pass premium payments taken from customers on to other intermediaries or insurers as required.

It also found that Mr McKay of Ideal Insurance Services Ltd, Chorley failed to disclose in his application to be an approved person that he had been convicted in 1996 of eight counts of obtaining property by deception and sentenced to eight months imprisonment.