COMPLIANCE UPDATER

Regulatory and compliance news in brief Issue: November 2019

Administrators at LCF use third party to consider suing PwC and EY.

Smith and Williamson, the administrators to London Capital & Finance (LCF), the investment firm that collapsed in January owing £237m to eleven-thousand five-hundred investors, are using restructuring firm FRP Advisory as a second administrator to consider taking legal action on behalf of the creditors against two big accounting firms – PwC and EY. This will avoid conflicts as PwC audited LCF and also audits Smith and Williamson, whilst EY was LCF's auditor until two years ago and also advises Smith and Williamson on its internal financial controls. Both PwC and EY were auditors to LCF whilst it engaged in marketing a high-risk bond scheme as an ISA savings product that the regulator, the Financial Conduct Authority (FCA) concluded was misleading.

South Korea's biggest hedge fund freezes withdrawals.

Lime Asset Management, South Korea's largest hedge fund with around Won4.9tn under management, suspended redemptions on $710m worth of its funds after the local regulator opened an investigation into its trading activities. Lime has been one of the beneficiaries from high net worth individuals being lured away from banks' low interest rate products into higher risk funds. The suspensions are similar to those suffered by investors in the funds of the UK's Woodford Investment Management, an open-ended fund structure that is faced with increasing demands for redemption which results in investments being sold at fire sale prices. In Lime's case, most of the fund investments are relatively illiquid convertible bonds. Lime is aiming to pay back investors within the next couple of years.

PRA warns insurers to improve culture.

In the wake of revelations that five-hundred people at Lloyds of London had witnessed sexual harassment, UK regulator the Prudential Regulation Authority (PRA) warned insurance CEOs to improve company culture. The warning stated the 'deep concern' of the regulator that a workplace where harassment and bullying is rife might also be one where employees feel they cannot come forward with concerns about general risks at their companies.

Humiliation for the UK's FCA over its new London HQ.

The UK Financial Conduct Authority suffered a conduct embarrassment. The regulator's new offices in East London were said to be in a 'shameful' state by its chief operating officer and its staff were reprimanded for verbal abuse of security and catering staff, as well as faeces on the floor of the toilet cubicles.

UBS fined for overcharging Hong Kong clients.

UBS was fined HK$400m ($51m) for overcharging thousands of customers for bond trades between 2008 and 2015. The Hong Kong Securities and Futures Commission disclosed that UBS charged the customers of its wealth management division an additional ‘spread’ in its bonds and structured debt products on almost thirty-thousand transactions spanning around five-thousand clients. The regulator referred to UBS’s misconduct involving deception and an abuse of trust. UBS will also spend around HK200m repaying the affected clients.

Corporate governance hypocrisy accusation aimed at fund manager.

The chairman of UK-listed company JD Wetherspoon accused its largest institutional investor – Columbia Threadneedle – of hypocrisy for failing to support the reappointment of two independent non-executive directors. Both had served more than the recommended nine years under the UK’s corporate governance code. Although it is not expected to comply as a US entity, the parent of Columbia Threadneedle, Ameriprise, would fail to meet the code. It has a chairman who has served more than nine years and is also the CEO. Both are breaches of the UK corporate governance guidelines.

Concerns over ethical breaches at G4S.

UK-listed G4S (often referred to as Group 4 Security) was highlighted by Norway’s massive $1tn sovereign wealth fund for alleged ethical breaches. The Norwegian fund decided to sell its shares in G4S after its council on ethics found it has harassed migrant workers in the Middle East (specifically Qatar and the UAE), confiscating passports and paying lower wages than had been agreed.

Janus Henderson fined £1.9m for closet tracking.

The UK Financial Conduct Authority fined fund manager Janus Henderson £1.9m for charging active management fees to retail investors for funds that were essentially tracker funds. Retail customers were charged around £1.8m in fees after the firm failed to inform them of a reduction in the active management of its Japanese and North American funds. At the same time, institutional investors were invited to stay in the funds without charge. Janus Henderson was deemed to have failed to treat its customers fairly. The firm has already compensated the affected customers.

Westpac CEO steps down over anti-money laundering failings.

The CEO of Westpac, Australia’s second largest bank, stepped down as the bank faces allegations of twenty-three million breaches of counter terrorism and money laundering laws. Most of the offences related to late reporting of transactions but there were also potential links to child exploitation. Westpac failed to adequately monitor the accounts of a convicted child sex offender who had regularly sent money to the Philippines.

Citigroup faces £44m fine from the UK's PRA.

US giant Citigroup was fined almost £44m by the UK Prudential Regulation Authority for failing to accurately report capital adequacy, leverage and liquidity. The problems came in part from teams in Mumbai and Budapest manually inputting data into reports incorrectly. The PRA said the pervasiveness of the errors and misstatements identified in the returns raised fundamental concerns about the effectiveness of Citigroup's UK regulatory reporting control framework and negatively impacted the PRA's ability to supervise. Citigroup agreed to resolve the matter and therefore qualified for a thirty per cent reduction in the fine imposed by the PRA without which the fine would have been £62.7m.

Former CEO faces £154,000 fine over lack of integrity.

A former CEO of a mutual insurance company (Scottish Boatowners' Mutual Insurance Association) was fined by the FCA (£78,318) and the PRA (£76,180) for transferring excessive amounts of his own remuneration to his wife to avoid tax and therefore lacking the integrity expected of him. Between 2010 and 2016 he transferred more than £200,000 of his pay to his wife such that by 2016 she was paid £52,000 – more than any other employee other than her husband. The payments were supposed to reflect her role in 'out of hours administrative support and occasional hospitality at home', saving her husband around £18,000 in income tax.

AIG appealing against $100m bonus demands.

US insurer AIG that was bailed out by the US government for around $182bn in 2008, is appealing against a UK high court ruling that it should pay bonuses totalling around $100m to twenty-three former UK executives. The executives were not involved in the CDS activities that almost brought AIG down, and claim they are due the bonuses which were a contractual obligation.

Dual class share plan mooted for London.

The UK government is looking at altering listing rules to allow dual class shares and therefore give it a better chance of attracting high growth companies. Such share structures have been used by companies including Google, Alibaba and Facebook to allow founders to retain control after US listings. Institutional investors are pushing back against the plans, arguing that the structures do not meet principles of good corporate governance.

AUTHOR
Martin Mitchell
Director, Training Services
MMitchell@cclacademy.com