COMPLIANCE UPDATER

Regulatory and compliance news in brief | Issue: February 2020

CEO-chair combination to be challenged.

Legal and General Investment Management, that controls around $1.4tn, announced it will vote against the re-election of all combined CEO-chairs believing the combination of roles is a “conflict of interest” – the job of the chair is to keep the CEO in check for shareholders. Many of the world’s best-known companies have a CEO-chair combination such as Larry Fink at BlackRock, Jamie Dimon at JPMorgan, Mark Zuckerberg at Facebook and Jeff Bezos at Amazon.

FCA suffers embarrassing compliance failure.

The UK’s Financial Conduct Authority (FCA) was fined £2,000 by the UK’s pension regulator (The Pensions Regulator) for failing to provide enough detail in a statement to members of its staff pension scheme about how well the scheme is governed.

Deutsche probing Saudi wealth management bribes.

Deutsche Bank is internally looking at an allegation that two former staff members paid $1.1m to the wife of a senior Saudi royal’s financial advisor to obtain wealth management business. The activities happened in 2011 and 2012 and have been reported to criminal prosecutors.

Thiam ousted to protect Credit Suisse’s reputation.

The Chief Executive at Credit Suisse, Tidjane Thiam, resigned under pressure from the board. Mr Thiam had been in charge when two spying operations were undertaken by the bank. The first followed ex-wealth management head, Iqbal Khan who defected to UBS, and the second followed Peter Goerke, the bank’s former head of HR. The ousting was an attempt to protect the reputation of the Swiss bank.

Work-life balance plans for LSE.

The London Stock Exchange appears to be gathering support for its consultation on cutting trading hours. Major asset managers including BlackRock, Schroders and Standard Life Aberdeen are all backing a trading day that runs from 9.00am to 4.00pm rather than the current 8.00am to 4.30pm. The support hinges on improved work-life balance for portfolio managers, technology, operations, legal and compliance alongside concentrating liquidity into a shorter trading day.

Long lens reveals UK Brexit plan for financial services.

A photographer's long lens on an unreleased briefing paper carried into Downing Street revealed the UK's plans on initial negotiations with the EU on financial services post Brexit. The ideal would be "permanent equivalence" – agreeing on equivalence for financial services regulations to enable access but removing the EU's ability to withdraw such equivalence which currently can be done in as little as thirty days. However, the paper also recognises the possibility of one of two "landing zones" rather than the ideal – a more limited "selective equivalence" underpinned by a "joint declaration on co-operation", or a "time limited" deal for financial services.

"Equivalence" needs to be longer.

London's International Regulatory Strategy Group (IRSG) wrote to the UK Chancellor and an EU commissioner setting out a wish to change the process for "granting and withdrawing access" to financial services in both the UK and EU markets post Brexit. The current equivalence regime allows the EU to cut off access with as little as thirty days' notice. The IRSG proposal is that a formal process is agreed for deciding on "equivalence" based on outcomes, and that any divergence on rules should be debated in a new UK-EU regulatory forum.

NMC to be probed by UK's FCA over ownership misreporting.

FTSE 100 listed UAE hospital operator NMC is facing a probe from the UK's FCA to clarify its ownership. It appears that 20m shares (9.6%) reportedly held by founder and co-chairman BR Shetty may have been transferred to his Emirati partners and another 9.9m shares may have been pledged as security.

FCA to investigate Barclays Chief Executive.

The UK's FCA is to investigate Barclays CEO Jes Staley about his links with disgraced US financier Jeffrey Epstein. The investigation comes after the FCA was provided with a cache of emails from JPMorgan between Mr Staley (then an Executive at JPMorgan) and Mr Epstein. The investigation is focused on whether Mr Staley's disclosure of a professional association with Mr Epstein was, in fact, more friendly.

Worries over Deutsche's anti-financial crime capabilities.

Deutsche Bank announced a policy that it will no longer utilise consultants that use their own limited companies to be paid. The policy is in response to incoming off-payroll tax rules that will make the "employer" liable for unpaid income tax and national insurance of workers that are wrongly classed as self-employed. Certain teams within anti-financial crime at Deutsche use consultants heavily and the consultants are threatening to leave rather than accept an approximate twenty-five per cent reduction in income by becoming employed.

JPMorgan wants ex-regulator for UK digital bank.

Replicating Goldman Sachs launch of its Marcus digital retail brand, JPMorgan is apparently close to launching its own digital bank in the UK and has already agreed to appoint ex-FCA Head of Supervision, Clive Adamson to chair the business.

Remaining three Barclays executives acquitted.

The UK's Serious Fraud Office (SFO) efforts to prosecute the alleged fraud and illegal financial assistance surrounding a $3bn loan from Qatar to Barclays finally collapsed as the three remaining individuals were acquitted at London's Old Bailey. Barclays remained free from the need for state assistance after the financial crisis of 2008 because it raised funds from other sources, particularly Qatar. The SFO believed Barclays secretly paid £322m to facilitate the Qatari cash calls and tried to sue Barclays, former CEO John Varley and three other ex-bankers (Roger Jenkins, Richard Boath and Tom Kalaris). The cases against the bank and Mr Varley both fell away on appeal and now the three remaining defendants have been acquitted. The rulings appear to require that a Senior Executive needs to be a "directing will and mind" behind an unlawful scheme to be found guilty, and that being able to be overruled by a board will not meet such criteria.

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

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