COMPLIANCE UPDATER

Regulatory and compliance news in brief | Issue: April 2020

Professional services firms' attempts to cope with the coronavirus.

Grant Thornton, the UK's sixth biggest accounting firm, became the latest professional services firm to have its coronavirus moves revealed. It has asked UK staff to volunteer to either take a voluntary sabbatical or a dramatic pay cut. The sabbatical will see them earn thirty per cent of their pay and run until June, or they can sign up for a forty per cent pay reduction until the end of May. Other professional services firms like Allen & Overy, KPMG, PwC and others are preparing to withhold payments to partners and/or ask them to inject money into the firm to keep things running.

Concerns over data security and privacy on Zoom.

As many businesses begin to use video calls over the internet, one of the most popular apps – Zoom – has been questioned about its data security. The NY state attorney general sent a letter raising concerns about the rise in traffic and Zoom's ability to protect sensitive user data. In stark contrast, the UK government re-started parliament using Zoom to reduce the need for MPs to travel to London.

Morrisons wins appeal over data leak.

UK retail chain Wm Morrison won a supreme court appeal after a data leak affecting around one hundred thousand staff. A disgruntled employee leaked payroll information on the internet in 2014, and nine thousand employees sought compensation for the leak of sensitive details. After a high court decision that Morrisons was culpable, the supreme court overturned that view concluding the company could not be held liable for the individual's actions.

UK FCA eases emergency fundraising requirements.

In an effort to speed up emergency fundraising to enable listed companies to get through the coronavirus crisis, the UK's Financial Conduct Authority (FCA) announced new measures. The measures included simplified investment prospectuses and a lifting of the limit on share issuance without giving existing investors first refusal (pre-emptive rights). The increase will be from five per cent to twenty per cent of the company's share capital.

Softbank facing legal challenge from WeWork.

Office space provider WeWork launched a legal challenge against Softbank over a $3bn equity injection. Softbank initially agreed to the equity raising, but then withdrew citing 'material liability' over investigations into WeWork and its co-founder Adam Neumann. The existence of such 'material liability' is disputed and will be decided by a Delaware court.

Insurers told by FCA to pay up quickly on interruption policies.

The UK's FCA warned insurers to pay up quickly to small businesses affected by coronavirus. Despite many insurers saying the business interruption policies will not cover losses for COVID-19, lawyers for policyholders argue the opposite. The FCA said it is important that claims are assessed and settled quickly and that insurers should consider making interim payments. If insurers disagreed, the FCA is asking for the grounds for reaching the decision and saying the decision is likely to 'help inform' the FCA's assessment of the insurer's culture.

ADCB launches criminal complaint against NMC Health.

Abu Dhabi Commercial Bank (ADCB) has launched a criminal complaint against certain individuals at troubled healthcare group NMC Health. NMC Health has been put into administration in the UK and owes ADCB almost $1bn. The bank accuses the individuals of forging or submitting inaccurate documents and fraudulently inducing ADCB to provide loans.

Expenses scandal at the world's biggest sovereign wealth fund.

Norway's $1tn wealth fund has been hit by an expenses scandal that impacts both its outgoing and incoming Chief Executives. The current CEO, due to step down in September, admitted that he should not have accepted a charter flight home from a seminar paid for by the hedge fund billionaire who is set to become the new CEO. Current CEO Yngve Slyngstad gave a lecture at Wharton in Pennsylvania in November 2019. The wealth fund paid for his flight to the US and the train to Pennsylvania, but Nicolai Tangen, the new appointee, paid for his hotel, food and a charter flight back to Oslo. The 3-day seminar included concerts by Sting and Gregory Porter. Questions are being asked about the procedure used in appointing Mr Tangan as well as whether the hospitality should have been accepted by Mr Slyngstad.

Singapore oil trading firm files for bankruptcy after admitting non-disclosure of losses.

Hin Leong Trading, a Singapore-based oil trading firm, filed for bankruptcy and its founder admitted to directing the finance department to hide the losses the firm was suffering. Some $800m of losses were reflected as accounts receivable and the firm has around $3.85bn in debts, including $600m to HSBC, $300m to ABN Amro, $240m to SocGen and a total of $680m to Singapore banks DBS, OCBC and UOB.

Potential for backlash for big US groups.

The US Paycheck Protection Program (PPP) – a bailout fund aimed at keeping small businesses afloat during the coronavirus shutdown – started at $350bn. It was exhausted extremely quickly but also accessed by some larger firms that are suffering great criticism. In particular, multinational burger chain Shake Shack and large restaurant chain Potbelly accessed the scheme that was aimed at keeping small, private companies alive. Adverse publicity and the possibility that customers might choose to take their business elsewhere as a result, may make the firms regret their decision.

Buyer of Moss Bros attempts to invoke material adverse change clause to pull out of the deal.

Brigadier Acquisition, owner of Crew Clothing and buyer of the Moss Bros menswear chain is attempting to pull out of the deal. Citing the coronavirus induced closures as a material adverse change, Brigadier has applied to retract the offer to the UK's Takeover Panel. Moss Bros is arguing that Brigadier has no valid reason for pulling out, particularly since it cited uncertainty around the spread of the virus as part of the motivation for the deal.

German fintech Wirecard unable to publish its annual report.

German fintech payments company and DAX 30 constituent Wirecard announced the result of a KPMG special audit. After facing allegations of accounting fraud over transactions included in operating profits between 2016 and 2018 raised by a whistleblower, Wirecard's supervisory board commissioned KPMG to verify sales and profits. KPMG said it could not verify the genuineness of the reported numbers and Wirecard has been forced to delay the publication of its latest annual report.

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

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