



Enforcement Focus



January 2020

Please click on either option below to learn more about recent enforcement cases handled by the FCA...



Market Abuse
Enforcement Actions



General FCA
Enforcement Actions

Please call us if you would like to discuss any of these cases in more detail.

Newgate Compliance
Limited

Contact us:

☐ [email](#); or

☐ 020 3696 8750

Market Conduct

What is the Code of Market Conduct?

The Code of Market Conduct provides guidance on FCA's implementation of the Market Abuse Regulations. It offers assistance in determining whether or not behaviour amounts to market abuse. The Code applies to all who use the UK financial markets.

Behaviour which could constitute market abuse is summarised below:

1. *Insider dealing* - an insider deals or attempts to deal in qualifying investments or related investment on the basis of inside information relating to the investment in question;
2. *Improper disclosure* – an insider discloses inside information to another person otherwise than in the proper course of the exercise of his employment, profession or duties;
3. *Manipulating transactions* – trading, or placing orders to trade, that gives a false or misleading impression of the supply of, or demand for, one or more investments, raising the price of the investment to an abnormal or artificial level
4. *Manipulating devices* - behaviour which consists of effecting transactions or orders to trade which employ fictitious devices or any other form of deception or contrivance;
5. *Dissemination* – behaviour which consists of the dissemination of information that conveys a false or misleading impression about an investment or the issuer of an investment where the person doing this knows the information to be false or misleading; or
6. *Misleading behaviour and distortion* - which gives a false or misleading impression of either the supply of, or demand for an investment; or behaviour that otherwise distorts the market in an investment.

Penalties can vary from public censure to imprisonment.

For further information please see the Code which is located in the FCA Handbook. *Code of Market Conduct* <http://fsahandbook.info/FSA/html/handbook/MAR/1>

If you have any suspicion of market abuse, please speak to your Compliance Officer as soon as possible.

Selection of Recent Market Abuse Enforcement Actions

The following section shows the recent market abuse enforcement actions taken by the FCA. Please continue to keep up to date with market conduct by regularly visiting the FCA website. <http://www.fca.org.uk/firms/markets/market-abuse>

There are no market abuse enforcement cases this month.

General FCA Compliance and High Level Principles

FCA Objectives - The FCA has an overarching strategic objective of ensuring that relevant financial markets function well. To support this it has three operational objectives: to secure an appropriate degree of protection for consumers; to protect and enhance the integrity of the UK financial system; and to promote effective competition in the interests of consumers.

FCA Principles for Business - The FCA have 11 high level principles that underpin their approach to regulation of firms.

1 Integrity	A firm must conduct its business with Integrity.
2 Skill, care and diligence	A firm must conduct its business with due skill, care and diligence.
3 Management and control	A firm must take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems.
4 Financial prudence	A firm must maintain adequate financial resources.
5 Market conduct	A firm must observe proper standards of market conduct.
6 Customers' interests	A firm must pay due regard to the interests of its customers and treat them fairly.
7 Communications with clients	A firm must pay due regard to the information needs of its clients, and communicate information to them in a way which is clear, fair and not misleading.
8 Conflicts of interest	A firm must manage conflicts of interest fairly, both between itself and its customers and between a customer and another client.
9 Customers: relationships of trust	A firm must take reasonable care to ensure the suitability of its advice and discretionary decisions for any customer who is entitled to rely upon its judgment.
10 Clients' assets	A firm must arrange adequate protection for clients' assets when it is responsible for them.
11 Relations with regulators	A firm must deal with its regulators in an open and cooperative way, and must disclose to the appropriate regulator appropriately anything relating to the firm of which that regulator would reasonably expect notice.

“Conduct Rules” - employees working in financial services are required to adhere to the Financial Conduct Authority’s (FCA) Conduct Rules which are an enforceable set of rules and set basic standards of good personal conduct. All individuals are required to act with: integrity; due skill; care and diligence; observe proper standards of market conduct; deal with the FCA in an open and cooperative way; and treat customers fairly. Senior Managers have further responsibilities to ensure: business units are organised and controlled; business is managed with due, skill care and diligence; regulators are complied with and appropriate matters are disclosed to the FCA.

Selection of FCA Enforcement Actions

The following is a selection of recent FCA enforcement actions where undue risk has been posed to FCA Objectives and firms and individuals have fallen short of the FCA's standards.

FCA secures confiscation order totalling £5 million against illegal money lender

On the 11th December 2019, Southwark Crown Court made a confiscation order against Dharam Prakash Gopee in the sum of £5,118,018.72. The effect of the order is to confiscate all his criminal proceeds as an illegal money lender. Mr Gopee was also ordered to pay almost £230,000 in compensation to consumers. This follows the FCA's prosecution in which Mr Gopee was convicted of illegal money lending and sentenced to three and a half years in prison. Mr Gopee illegally loaned money to vulnerable consumers at high rates, securing the loans against their properties. He sought to take possession of the properties if the consumers failed to repay their loans.

This enforcement action evidences FCA's current focus on ensuring that vulnerable consumers are treated fairly across financial services sectors.

<https://www.fca.org.uk/news/press-releases/fca-secures-confiscation-order-totalling-5-million-against-illegal-money-lender>

DSG Retail Ltd

The Information Commissioner's Office (ICO) has fined DSG Retail Limited (DSG) £500,000 after a 'point of sale' computer system was compromised as a result of a cyber-attack, affecting at least 14 million people. An ICO investigation found that an attacker installed malware on 5,390 tills at DSG's Currys PC World and Dixons Travel stores between July 2017 and April 2018, collecting personal data during the nine-month period before the attack was detected. The company's failure to secure the system allowed unauthorised access to 5.6 million payment card details used in transactions and the personal information of approximately 14 million people, including full names, postcodes, email addresses and failed credit checks from internal servers.

DSG breached the Data Protection Act 1998 by having poor security arrangements and failing to take adequate steps to protect personal data. This included vulnerabilities such as inadequate software patching, absence of a local firewall, and lack of network segregation and routine security testing. In January 2018, the ICO fined Carphone Warehouse, which is part of the same company group, £400,000 for similar security vulnerabilities.

The ICO considered that the personal data involved would significantly affect individuals' privacy, leaving affected customers vulnerable to financial theft and identity fraud. The ICO received 158 complaints between June 2018 and November 2018 from DSG's customers. As of March 2019, the company reported that nearly 3,300 customers had contracted them directly in relation to this data breach.

Although this action was driven by the ICO, firms should note that the FCA is increasing its focus on operational resilience of regulated firms as a vital part of protecting the UK's financial system, institutions and consumers.

<https://ico.org.uk/action-weve-taken/enforcement/dsg-retail-ltd/>

First-tier Tribunal upholds decision to fine Hall and Hanley Limited for data breaches and unauthorised copying of client signatures

Hall & Hanley Limited (“H&H”) is a Claims Management Company (“CMC”) whose business focused on claims for mis-sold payment protection insurance (PPI). A £91,000 fine was initially imposed by the Claims Management Regulator (“CMR”) under the previous regulatory regime for CMCs due to data breaches and unauthorised copying of client signatures. H&H appealed to the Tribunal against the fine.

In a statement by Mark Steward, Executive Director of Enforcement and Market Oversight at the FCA, said that the firm failed ‘to take previous advice warnings from the former claims management regulator’ and made ‘repeated use of consumer data and customer signatures without their consent’ leading to the firm falling below the required standards of conduct.

On the 5th March 2019, the CMR found that H&H had breached rules requiring CMCs to take all reasonable steps to ensure that any referrals, leads or data purchases from third parties had been obtained in accordance with applicable laws. In addition, when reviewing a sample of 16 of H&H’s client files, the CMR found that in 8 of the files clients’ signatures on claim documentation (including letters of authority) had been copied without authorisation. The CMR considered the unauthorised copying of clients’ signatures, submitted by H&H to financial firms, to be a serious matter and considered H&H to have been negligent in failing to detect and prevent this conduct by one of its employees.

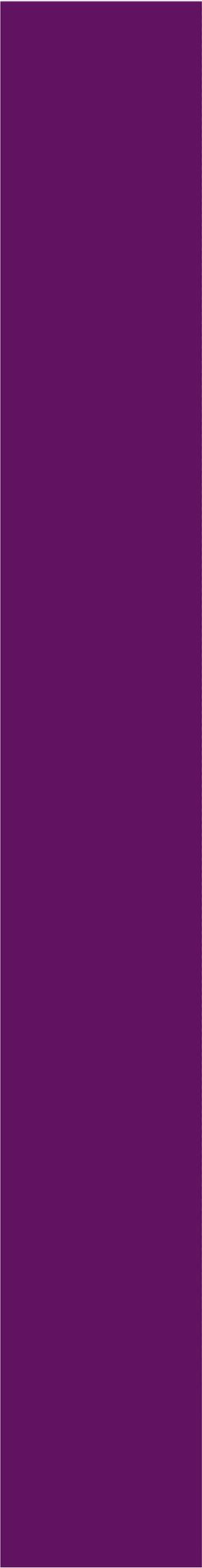
The First-tier Tribunal (the Tribunal) has upheld the fine of £91,000 imposed on H&H by the CMR, the former regulator for CMCs. The hearing for the Tribunal was conducted by the FCA which has taken over the functions of the CMR.

This enforcement action reinforces the expectations from the regulator that firms and individuals operating within them must conduct all business with integrity and due care, skill, and diligence. It also evidences that the FCA will take enforcement action against firms for breaches of compliance related to the General Data Protection Regulation (“GDPR”) for processing personal data without the appropriate consent.

<https://www.fca.org.uk/news/press-releases/first-tier-tribunal-upholds-decision-fine-hall-and-hanley-limited-data-breaches-and-unauthorised>

FCA secures confiscation order totalling over £170,000 against convicted fraudster

An FCA prosecution of Mr Virdee led to a two-year prison sentence for defrauding investors over a two-year period. In total, investors of Mr Virdee were defrauded of over £600,000. The conviction related to misleading consumers, fraud and the illegal operation of an unauthorised investment scheme worth over half a million pounds. The effect of the confiscation order is to confiscate all of Mr Virdee’s criminal proceeds.



Mark Steward, Executive Director of Enforcement and Market Oversight at the FCA said: 'This FCA reminds investors to beware of anyone who is not authorised to carry out the activities they are offering.'

This enforcement action demonstrates that the FCA actively monitor the regulatory perimeter and will take action where firms do not hold the appropriate permission or are causing detriment to UK consumers.

<https://www.fca.org.uk/news/press-releases/fca-secures-confiscation-order-totalling-over-170000-against-convicted-fraudster>