



Regulator Enforcement Action

Newgate News

May 2022

FCA Prevents Advisory Firm ADSL From Disposing of Assets.....	2
Changes to FCA Fees for Form A Applications.....	2
2022 Fines.....	3
The FCA Opens Public Discussions on Use of 'Side Pockets' To Differentiate Between Hard To Sell Russian and Belarussian Assets and Other Funds.....	4
FCA Secure £2,000,000 Account Forfeiture Order.....	4
Reed Online Fined £40,000 for Breaching Privacy Regulations.....	5

FCA Prevents Advisory Firm ADSL From Disposing of Assets

On 29th April 2022, the FCA issued a statement with the intention of imposing requirements on the advisory firm, Alexander David Securities Limited (ADSL) from disposing of their assets without notifying the FCA. Although ADSL is still regulated, there have been several restrictions place on the firm since June 2020, prohibiting them from carrying out regulated activities and holding client assets. This is to ensure money is available to pay compensation owed by ADSL, including unpaid redress awarded by the Financial Ombudsman Service (FOS), to those given unsuitable pension advice. Two of the firms' appointed representative and agents, have been reported to the FOS for recommending their clients into transferring their pensions into self-invested personal pensions and using the funds to invest in mini bonds. The FOS determined that this advice was unsuitable and transfers were not in the customers' best interests.

One of the key areas of focus for the FCA this year is following up on their commitment to set and test higher standards for firms to protect consumer interests.

Newgate's advice: You must ensure you obtain the necessary information from a client to be able to make suitable recommendations. This includes collecting information on their financial situation, their investment objectives, their capacity for loss and knowledge and experience of investments. Newgate can provide your firm with suitability questionnaires and advice on categorising clients.

<https://www.fca.org.uk/news/statements/fca-stops-alexander-david-securities-limited-disposing-assets-without-permission>

Changes to FCA Fees for Form A Applications

From 27th May the FCA will be introducing a new charge of £250 for standalone long Form applications both for Senior Manager Functions and Controlled Function for Appointed Representatives. This new charge was consulted in November 2020 as part of the FCA's **Consultation Paper CP 20/22** and reconfirmed in the FCA's Policy Statement PS 22/1. For more information, please refer to the Handbook Notice.

Newgate's advice: If your firm is considering submitting a Form A application either for an Authorised firm or Appointed Representative, we suggest submitting the form prior to 27th May if you wish to avoid the £250 application fee.

2022 Fines

As of April 2022, the total amount fines issued by the FCA amounts to £10,117,360. This is inclusive of both firms and individuals:

- Barclays Bank Plc was fined £783,800 of being in breach of PRIN 2 relating to financial crime. Premier FX was an authorised payment institution which provided foreign exchange and money remittance services to customers. Following Premier FX's liquidation in 2018, it was discovered that client monies at Premier FX were not properly segregated or safeguarded, resulting in a shortfall in customer funds of over £10m. Premier FX had been a Barclays customer from 2006. Barclays provided banking and foreign exchange services to FX and is required to conduct periodic AML reviews of Premier FX to ensure it met certain requirements such as segregating client funds. The FCA found that Barclays breached Principle 2 of the FCA's Principles for Business by not acting with due skill care and diligence in carrying out its ongoing monitoring of Premier FX.
- GAM International (GIML) was fined £9,103,523 and former Investment Director, Timothy Haywood was also fined £230,037. GIML mishandled a conflict-of-interest situation that arose from transactions linked to Greensill Capital (UK) where Mr Haywood was the investment manager making investment decisions. Potential incentives were offered which would have provided benefits to GIML or its parent company. Although these were not taken up, they were not dealt with properly by GIML. Conflict of interest policies were not followed and as a result any potential conflicts were not considered by those who should have been responsible for doing so. Mr Haywood failed to notify GIML in a timely manner that he received gifts and entertainment including travelling on Greensill's private aircraft. Although investment decisions were not made, the risk of Mr Haywood benefitting from the trip from a personal level was high.

Newgate's advice: Our team can assist your firm with tailor-made compliance monitoring programmes which include Anti-Bribery & Corruption and Gifts and Inducements modules, involving questionnaires and risk assessments in line with FCA expectations and requirements. You must ensure your money laundering systems and controls are robust and can stand up to scrutiny.

<https://www.fca.org.uk/news/news-stories/2022-fines>

The FCA Opens Public Discussions on Use of 'Side Pockets' To Differentiate Between Hard To Sell Russian and Belarussian Assets and Other Funds

Amid the recent Russian invasion of Ukraine, the regulator has begun consultations proposing new rules to permit Authorised Fund Managers to separate their core investments from Russian and Belarussian assets. This means that investors can enter the fund without having the added risk of being exposed to Russian assets and it also allows some funds to end their current suspension of dealing. It is not known as to when the 'Side Pockets' initiative will be introduced, however, when it does come into effect, it will be optional to those who fall into the scope of assets that are illiquid because of war in Russia/Ukraine.

Newgate's advice: We are continually staying ahead of current financial affairs and publish regular newsletters and updates on our website and [LinkedIn](#) page. Newgate can advise on how the UK Sanctions regime impacts your firm.

<https://www.fca.org.uk/news/statements/fca-consult-use-side-pockets-retail-funds-exposure-sanctioned-and-suspended-russian-assets>

FCA Secure £2,000,000 Account Forfeiture Order

QPay, which is London base Fintech firm offering due diligence and underwriting services, consented to a court order to release £2million held in its name in October 2021, after proceedings brought on by the FCA took place considering an investigation which tied QPay to a \$150 million US wire fraud scheme. The investigation is being looked into by US as well as UK authorities to find out how bank and credit card firms were deceived into processing payments from high-risk businesses. There is no evidence to suggest that QPay was directly involved in the fraud scheme, but the money was initially frozen by the FCA in October and December of 2020, however the firm was first brought to the regulators' attention, when they made an application to become authorised in March 2020 and immediately started to move money through several bank accounts, without

having any reasoning for legitimate business transactions. QPay later withdrew their application.

Newgate's advice: Our dedicated consulting team frequently help to process FCA authorisation applications are committed in providing effective and detailed results using our expertise and knowledge of the FCA's standards.

<https://www.fca.org.uk/news/press-releases/fca-secures-account-forfeiture-order>

Reed Online Fined £40,000 for Breaching Privacy Regulations

Reed Online, a recruitment website, was fined £40,000 relating to several complaints made to the ICO's spam reporting tool. Reed Online had accidentally sent an email to over 6 million unsubscribed users and jobseekers on their system, breaching Privacy and Electronic Communication Regulations 2003.

<https://ico.org.uk/action-weve-taken/enforcement/reed-online-limited/>

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Newgate Compliance is a compliance consultancy offering a modern solution to implement your compliance function using an innovative compliance software solution called **The GATEway**.

Newgate has an unrivalled combination of experienced professionals, many of whom are ex-regulators.

Our customer focused approach seeks to provide appropriate, pragmatic and flexible solutions to our clients helping them to meet both the regulator's rules but also the spirit, principles and culture of the regulatory regime.

We look to build long-term relationships with our customers helping to encourage business growth, productivity and innovation. Our proactive approach is tailored to each customer's needs changing to meet those needs as the customer progresses and develops.

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