



# Enforcement Focus



May 2020

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



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**Market Abuse**  
Enforcement Actions

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**General FCA**  
Enforcement Actions

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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.

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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.

### **Business interruption insurance during the coronavirus pandemic - High Court test case**

**15.05.2020**

The coronavirus pandemic and the resulting controls put in place by the Government has resulted in many claims being made to insurers under the terms of business interruption (BI) insurance policies. There is widespread concern about the lack of a positive response of some of those BI insurance policies, and the basis on which some insurers are making decisions in relation to claims. On the 1st May 2020, the Financial Conduct Authority (FCA) released a statement with the intention to obtain court declarations aimed at resolving contractual uncertainty in selected BI insurance policies. Acting in the public interest, the FCA will put forward policyholders' arguments to their best advantage. It is designed to assist policyholders, and SMEs, whose claims are being refused when they think the firm should respond.

The action will not prevent individuals from pursuing issues through negotiated settlement, arbitration, court proceedings as a private party, or taking eligible complaints to the Financial Ombudsman Service. The result of the test case will be legally binding on the insurers that are parties to the test case in respect of the representative sample considered. It will also provide persuasive guidance for the interpretation of similar policy wordings and claims, that can be taken into account in other court cases, by the Financial Ombudsman Service and by the FCA in looking at whether insurers are handling claims fairly.

The FCA are inviting policyholders and insurance intermediaries who are aware of unresolved disputes with insurers over the terms of BI policies to engage with. The FCA are looking for advice as to why these individuals/entities consider arguments should be available and brief relevant facts of the case.

<https://www.fca.org.uk/news/statements/business-interruption-insurance-during-coronavirus>

## **FCA secures orders for victims of unauthorised share scheme**

**07.05.2020**

The High Court has ordered four individuals and one company to pay nearly £3.62m in restitution to members of the public who bought shares that were promoted unlawfully.

Following an investigation by the Financial Conduct Authority (FCA), the Court ordered that:

- The directors of Our Price Records (OPR), Lee Skinner and Karen Ferreira, should pay £3,619,352 and £2,792,889 respectively in restitution for their roles in the unlawful promotion of OPR shares to the public. The Court also found that Mr Skinner was aware that OPR was making false or misleading statements and dishonestly concealing material facts in its promotional material.
- Marketing agents Clive Mongelard, Tyrone Miller and Venor Associated Ltd (“Venor”), who operated under the name “Gemini”, are jointly and severally liable to pay £1,207,050 in restitution for their roles in the unlawful promotion of OPR shares and for arranging for investors to acquire shares in OPR without authorisation. The Court also found that Venor advised investors on the merits of acquiring shares in OPR without authorisation and made false or misleading statements to consumers. Mr Mongelard was found to be involved in these breaches.

Mark Steward, Executive Director of Enforcement and Market Oversight at the FCA, said:

‘Investors should stay clear of any unsolicited investment offers from unauthorised advisers or brokers. These businesses are breaking the law and will almost certainly lead to investment losses.’

OPR was a start-up company which promoted other companies’ products through its websites for a commission. After initially failing to secure any investment from high net worth or sophisticated investors through an FCA authorised firm, OPR sought to raise funds from retail customers through two share offerings. OPR promoted them through unauthorised marketing agents who telephoned members of the public. The first share offering took place between October 2014 and March 2015 at 60p per share, and the second between March 2015 and November 2015 at £1 a share. A total of £3,619,352 was raised from 259 investors with individual investments ranging between £1,200 and £252,000.

The majority of the investors were introduced by Venor and Miller & Osbourne Associates Ltd (“M&O”). Mr Mongelard was the director of Venor and Mr Miller was the director of M&O, but they operated the businesses together under the name Gemini Asset Management. The Court found that:

- Mr Skinner misled an accountancy practice into producing letters purporting to approve OPR’s financial promotions, even though unauthorised accountancy practices cannot approve financial promotions.
- OPR’s marketing materials contained misleading or false statements. They did not disclose that marketing agents received circa 50% commission on the gross amount raised on any sale of shares by them and that a large part of the remaining funds invested by shareholders was funnelled to Mr Skinner via two shell companies. It also did not disclose accurately the status of trademark proceedings that had been brought against OPR.

- Venor included false and misleading statements in the scripts it used during sales calls, including that OPR was a very fast-growing company, that Mr Skinner was a personal friend of Richard Branson and that the band Madness had agreed to appear for free in an advert of OPR.

Miller & Osbourne Associates Ltd\_ was dissolved on the 6<sup>th</sup> August 2019.

<https://www.fca.org.uk/news/press-releases/fca-secures-orders-victims-unauthorised-share-scheme>

### **FCA commences civil proceedings in relation to alleged unauthorised investment advisers**

**27.04.2020**

The Financial Conduct Authority (FCA) has commenced proceedings in the High Court against 24HR Trading Academy Ltd (24HTA) and its sole director, Mohammed Fuaath Haja Maideen Maricar.

The FCA alleges that from 2017 onwards, 24HTR and/or Mr Maricar have been advising on investments and arranging deals in investments without FCA authorisation and engaging in financial promotions without being an authorised person or having the promotions approved by an authorised person. The FCA alleges alternatively that Mr Maricar has been knowingly concerned in 24HTA's contraventions.

24HTA/Mr Maricar had been transmitting 'trading signals' and making other investment recommendations to clients via WhatsApp and other social media platforms. Clients were told that if they followed these trading instructions, they would make significant profits. In addition, consumers were induced to sign up with a 'partnered' broker to place their trades. 24HTA/Mr Maricar would receive sign-up and other commissions from the brokerages in addition to the monthly payments from clients for the signals.

The FCA has secured an interim injunction stopping these activities from continuing and freezing the defendant's assets up to £624,311 pending further hearing. The FCA is seeking final orders including a declaration from the Court that the defendants carried on regulated activities without the required FCA authorisation and unlawfully made financial promotions as well as an order preventing them from carrying out these activities in the future.

The FCA will also seek a restitution order that would distribute the defendant's frozen assets to consumers who suffered financial losses because of the alleged breaches of the Financial Services and Markets Act.

<https://www.fca.org.uk/news/press-releases/fca-commences-civil-proceedings-relation-alleged-unauthorised-investment-advisers>

## **Liberty SIPP Limited enters administration**

**01.04.2020**

On the 27<sup>th</sup> April 2020, the directors of Liberty SIPP Limited, a firm authorised and regulated by the Financial Conduct Authority (FCA), appointed Andrew Poxon & Alex Cadwallader of Leonard Curtis as Joint Administrators ('administrators'). Following several binding decisions from the Financial Ombudsman Service the company was advised that it was insolvent based on the number of potential claims relating to high-risk non-standard investments. It was advised it should enter administration to provide protection for creditors including former customers.

<https://www.fca.org.uk/news/statements/liberty-sipp-limited-enters-administration>

## **Basset & Gold Plc (B&G Plc) and B&G Finance Ltd (B&G Finance) enter administration**

**01.04.2020**

On the 1<sup>st</sup> April 2020, the directors of B&G plc and B&G Finance decided to place the firms into administration. Paul Boyle, David Clements and Anthony Murphy, insolvency practitioners of Harrisons Business Recovery and Insolvency were appointed as administrators for both B&G Companies. B&G plc, which is not regulated by the Financial Conduct Authority (FCA), issued bonds which were sold to retail consumers. B&G Finance, which is regulated by the FCA, acted as an intermediary between B&G plc and investors, arranging investments in the bonds sold by B&G plc. The FCA believes that there are approximately 1800 customers who have invested in B&G Plc bonds, totalling approximately £36m.

A significant proportion of the funds B&G plc raised by issuing its bonds was invested in the high cost short term credit lender, Uncle Buck Finance LLP (Uncle Buck), which entered administration on the 27<sup>th</sup> March 2020.

<https://www.fca.org.uk/news/news-stories/basset-gold-plc-b-g-finance-administration>

## **Uncle Buck LLP enters administration following FCA action**

**27.03.2020**

The Financial Conduct Authority (FCA) had concerns that Uncle Buck Finance LLP (Uncle Buck) was failing to meet the adequate resources Threshold Conditions. Given the severity of these concerns, the FCA has required Uncle Buck to stop lending to customers. Following this action, the members of Uncle Buck have placed the firm into Administration. <https://www.fca.org.uk/news/news-stories/uncle-buck-llp-enters-administration-following-fca-action>

## **Caversham Finance Limited t/a BrightHouse enters administration**

**30.03.2020**

On the 30<sup>th</sup> March 2020, Caversham Finance Limited t/a BrightHouse, was placed into administration. Chris Laverty, Trevor O'Sullivan, and Helen Dale of Grant Thornton UK LLP were appointed as Joint Administrators. Caversham Finance is a rent-to-own retailer, which lends to customers to purchase household furniture. It also provides cash loans up to £1,000 for a fixed term of 18 months.

<https://www.fca.org.uk/news/news-stories/caversham-finance-limited-brighthouse-enters-administration>