

Newgate News



August 2021

- **Financial adviser sentenced for carrying on regulated activities without authorisation**
- **FCA bans convicted fraudster from carrying out regulated activity**
- **ICO Enforcement action**
 - Papa John’s
 - The Conservative Party
 - Brazier Consulting

Impact assessment key:



Financial adviser sentenced to 4 years imprisonment for fraudulent trading and carrying on regulated activities without authorisation

On 26 July, [Ian Hudson was sentenced](#) to 4 years’ imprisonment following criminal proceedings by the FCA relating to a carrying on a business, Richmond Associates, for fraudulent purposes, and carrying on regulated activities when not authorised or exempt.

Mr Hudson advised on regulated mortgages, pensions, and other investments and claimed to invest money received by him from clients on their behalf. At no point during this time was he authorised by the FCA to undertake these, or any, financial services, as is required by law.

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

‘Mr Hudson’s defrauding was calculated and persistent over a number of years, preying on victims who believed he was a financial adviser and trusted friend when he was neither of these things. We remind investors to check the FCA’s register of authorised person to ensure any financial adviser is authorised to provide financial advice by the FCA.’

Newgate’s advice: *Firms must ensure they only carry out activities for which they hold appropriate FCA permissions. If you have any concerns regarding your scope of permissions, please contact your Newgate Compliance Consultant. Firms are encouraged to make use of the FCA Register to verify the authorisation status of new personnel or third party vendors.*

Impact:

FCA bans convicted fraudster from carrying out regulated activity

On the 9 July, the FCA banned [Matthew Creed](#) from performing any regulated activity after their investigation found Mr Creed had failed to inform them about a previous bankruptcy and a disqualification as a company director.

Mr Creed was convicted of dishonesty offences under the Insolvency Act 1986 and the FCA found he lacks honesty and integrity in respect of his dealings.

Between February and August 2012, whilst a director of PEL, Mr Creed dishonestly executed eight transfers which removed £166,000 from the company's accounts. Additionally, in June 2016, Mr Creed became aware he was the subject of a criminal investigation for

executing fraudulent transactions. As an approved person Mr Creed was required to report the fact he was under criminal investigation, in addition to the fact of his qualification, and failed to do so.

Newgate's advice: *Regulated individuals must ensure they are aware of their reporting obligations to the FCA. If you are in any doubt, please contact your Newgate Compliance Consultant. Additionally, firms are reminded that they must ensure their senior managers and certified staff remain fit and proper for their controlled functions. Firms should also implement periodic employee compliance declarations which can help raise any issues to the Compliance Officer. Our Gateway system is an online compliance tool which helps firms to manage employee related compliance obligations. Contact us for a free demo of the system.*

Impact: 

ICO Enforcement

Papa John's (GB) Limited

Papa John's Limited [has been fined £10,000](#) for sending 168,022 nuisance marketing messages to its customers. An ICO investigation found that Papa John's was relying on a 'soft opt in' exemption in order to send marketing texts and emails, which allows organisations to send electronic marketing messages to customers whose details have been obtained for similar services but offers a simple way for people to refuse or opt out. The ICO ruled that Papa John's could not rely on this exemption for customers that had placed an order over the telephone, as they were not given the option to opt out at point of contact nor were they provided with a privacy notice.

Andy Curry, ICO Head of Investigations said: "The law is clear and simple. When relying on the 'soft opt in' exemption companies must give cus

tomers a clear chance to opt-out of their marketing when they collect the customers details. Papa John's telephone customers were not given the opportunity to refuse marketing at the point of contact, which has led to this fine."



The Conservative Party

The Information Commissioner's Office (ICO) has [fined the Conservative Party £10,000](#) for sending 51 marketing emails to people who did not want to receive them. During the eight days in July 2019 after Boris Johnson was elected Prime Minister, emails were sent out which included a link directing recipients to a website for joining the Conservative Party.

Stephen Eckersley, ICO Director of Investigations, said:

"All organisations – be they political parties, businesses or others – should give people clear information and choices about what is being done with their personal data. Direct marketing laws are clear and it is the responsibility of all organisations to ensure they comply."

Brazier Consulting Services Ltd

The ICO has [fined Brazier Consulting Services Ltd \("BCS"\) £200,000](#) for making more than 11 million unlawful claims management calls. An ICO investigation found the firm made repeated nuisance calls to people about PPI.

Natasha Longson, ICO Investigations Manager, said:

"It's clear from the complaints we received that these calls caused real distress. What's more, the firm continued to bombard people by phoning even when they'd been asked to stop."

The ICO also issued BCS with an Enforcement Notice compelling them to stop their illegal marketing activity and informing them that failure to do is a criminal offence.

Newgate's advice: *These fines indicate increasing confidence from the ICO to go after those who unlawfully send out marketing messages to its customers. Your firm must ensure that it is clear on the lawful basis for marketing when sending out messages to customers or potential customers. Please do not hesitate to contact Newgate who can provide expertise on what you are able to do under the GDPR.*



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