



# Enforcement Focus



April 2018

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 market abuse enforcement actions taken by the FCA since our last enforcement focus in July. 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>

### **Samrat Bhandari sentenced in FCA prosecution of £1.4 million investment scheme. January 2018**

Samrat Bhandari, a director of William Albert Securities Ltd, played a key role in the operation of an investment scheme which led to the loss of just over £1.4 million and was sentenced at Southwark Crown Court to 3 and a half years' imprisonment. In addition, Bhandari was also disqualified from holding the position of director for 12 years.

The scheme carried out between 2009 and 2014 targeted vulnerable and elderly investors who were mis-sold shares in Symbiosis Healthcare plc ('Symbiosis') through a variety of cold-calling, exaggerated promotional material and pressure sales. Symbiosis, set up by Dr Aleem Mirza was portrayed as a successful company offering 'healthcare solutions' when in fact, the shares in the company were worthless.

Mr Bhandari worked as a corporate advisor to Symbiosis who organised the selling of Symbiosis shares in an exploitative manner for personal gain. A director of enforcement and market oversight at the FCA stated that Bhandari was 'the controlling mind in this scheme'.

During sentencing the Judge states Mr Bhandari had been 'entirely self-centred and devious' with no sympathy or "...shred of regret" for what he has done to the investors. Bhandari was described by the Judge to be using the enterprise as his 'cash cow' and that regulation meant nothing to him.

Bhandari offered to repay the investors in the scheme but later withdrew his offer in which was described by the judge as 'another example of manipulative behaviour'.

Mr Bhandari's sentence follows that of Dr Aleem Mirza, brothers Paul and Michael Moore who were also sentenced to imprisonment at an earlier hearing for their involvement in the investment scheme which attracted more than 300 investors.

<https://www.fca.org.uk/news/press-releases/samrat-bhandari-sentenced-fca-prosecution>

## **Interactive Brokers (UK) Limited have been fined £1,049,412 by the FCA for failure to report suspicious client transactions and poor market abuse. January 2018**

IBUK, a London based online broker has failed to adequately contribute into the design and calibration of the post-trade monitoring systems which it delegated to a team based in the US (another company within Interactive Brokers Group).

The failure of testing their operation, providing effective oversight of the US team, as well as the lack of quality assurance and monitoring of the review of the reports enhanced potential market abuse risks by its clients.

In addition, the failure to ensure the staff conducting the reviews were adequately trained heightened the risk of IBUK failing to report suspicious transaction reports (STRs) to the FCA. Between the period February 2014 and February 2015 IBUK did not report any STR's in relation to insider dealing, however the FCA identified three occasions regarding suspicious trading by IBUK clients during this period. Firms are responsible for reporting suspicions as well as effective monitoring of its trading systems to help mitigate financial crime.

IBUK's breach has revealed serious and systemic weaknesses within its procedures, resulting in the FCA's fine of £1,049,412.

<https://www.fca.org.uk/news/press-releases/fca-fines-interactive-brokers-uk-limited>

## **FCA fines and bans former RBS trader, Neil Danziger. January 2018**

A financial penalty of £250,000 has been imposed by the FCA on former Royal Bank of Scotland (RBS) interest rate derivatives trader, Neil Danziger and prohibited him from performing any function in relation to any regulated financial activity.

Mr Danziger worked at RBS trading products referenced to Japanese Yen (JPY) LIBOR. He occasionally made RBS's JPY LIBOR submissions to the British Bankers Association (BBA) when RBS's primary submitters were not available.

The FCA found that Mr Danziger was knowingly concerned in RBS's failure to keep up correct standards for market conduct. Due to his lack of integrity and reckless manner, the FCA has concluded that Danziger is not a fit and proper person.

Between September 2008 and August 2009, Mr Danziger entered into 28 wash trades, with the purpose being to make or facilitate brokerage payments to two firms of brokers in recognition of his receipt of personal hospitality.

Mark Steward, Executive Director of Enforcement and Market Oversight quotes:

"Proper standards of market conduct reflect the interests of the whole community in the well-being of our financial markets... Market participants cannot turn a blind eye to what the community, through its laws and regulations, expects nor apply their own, lower standards. This substantial fine and ban should reinforce that message."

<https://www.fca.org.uk/news/press-releases/fca-fines-and-bans-former-rbs-trader-neil-danziger>

## General FCA Compliance, High Level Principles and Approved Person Primer

**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.

**Principles for Approved Persons** - Approved Persons are required to comply with Statements of Principles for Approved Persons which describe the conduct that the FCA requires and expects of the individuals it approves. All Approved Persons are required to act with: integrity; due, skill care and diligence; observe proper standards of market conduct; deal with FCA in an open and cooperative way. Those holding significant influence functions also have further responsibilities to ensure that their business units are organised and controlled; they manage their business with due skills, care and diligence; and that they ensure compliance with regulations.

## **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 FCA's standards.

### **Convicted illegal money lender sentenced to three and a half years imprisonment. February 2018**

Dharam Prakash Gopee was found guilty at Southwark Crown Court for offences under the Consumers Credit Act 1974 and the Financial Services and Markets Act 2000.

In addition to this custodial sentence, Mr Gopee was issued with a Serious Crime Prevention Order ("SCPO") which will severely restrict his ability to perform this type of crime in the future. This case is the first time the FCA have sought such an order, indicating the gravitas of his conduct.

Mr Gopee acted as an illegal lender despite being refused a customer credit licence by the OFT or securing any authorisation by the FCA. He loaned money to vulnerable customers at high rates, securing the loans against their property and then sought to take possession if they failed to pay. Between 2012 and 2016, Gopee's loan books showed that he issued approximately £1 million of new loans and took in £2 million in payments from consumers, who were not aware that he did not have a licence.

The judge quoted that Mr Gopee's practices have "... exploited the weaknesses and vulnerabilities of many, many people ..." who were unaware that their trust in him was misplaced with Mr Gopee showing "a horrible pattern of exploitation".

In April 2016, having denied various breaches which included failing to disclose assets, continuing to deal with assets, opening and using new accounts - Mr Gopee was found to be in contempt of court and imprisoned for a period of 18 months. He was released early by the court in September 2016 having promised to comply with the order. However, Gopee continued to commit various breaches, resulting in further proceedings being brought against him. On this second occasion, Gopee admitted to these breaches and was imprisoned for a term of 15 months in October 2017.

Mr Gopee continues to serve his time for contempt, and his sentence for the most recent offences will commence after that term has been completed.

<https://www.fca.org.uk/news/press-releases/gopee-convicted-illegal-money-lender-sentenced>

### **FCA issues list of unauthorised binary options providers. January 2018**

The FCA has published a list containing 94 firms without FCA authorisation with the understanding that binary options have been offered to UK customers.

Since January 2018, firms involved in binary options trading in the UK are required to be authorised by the FCA. However, if a firm is not authorised and continue with binary option activities, this will be acting in breach of section 19 of Financial Services and Markets Act 2000 (FSMA), which is a criminal offence. It is common for binary options consumers to lose money, which can be significant. Any consumers who trade with an unauthorised binary options firm will not have access to the Financial Ombudsman Service or Financial Services Compensation Scheme should things go wrong.

The FCA will consider acting through the courts to stop illegal activity when examining these firms.

<https://www.fca.org.uk/news/press-releases/fca-issues-list-unauthorised-binary-options-providers>