



Newgate News

February 2023

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FCA fines three broker firms £4,775,200

<https://www.fca.org.uk/news/press-releases/fca-fines-three-broker-firms-failures-relating-detection-market-abuse>

In December 2022 the FCA fined BGC brokers LP and two GFI Group subsidiaries, GFI Brokers and GFI securities, £4.8 million for their failure to implement MAR trade surveillance requirements. The ineffectiveness of their systems and controls, resulted in a huge amount of suspicious trading activity going undetected.

According to FCA findings between 2016 and 2018, the trading brokers operated flawed and inadequate surveillance processes that could not appropriately address market abuse. BGC and GFI systems did not cover all asset classes under MAR and it is a requirement for all FCA regulated firms to monitor transactions and orders to detect potential fraud attempts.

The inter-dealer brokers agreed to resolve the case at its early stages. As a result, the fine imposed by the FCA was reduced from £6,821,800 (by 30%).

Suitable update for: All firms that use trade surveillance systems and conduct trading activity

Impact for firms: Newgate's online platform Gateway offers a record and approving tool to track all trade deals. Contact us for a free demo.

FCA fines Guaranty Trust Bank 7.6 million for AML failures

<https://www.fca.org.uk/news/press-releases/fca-fines-guaranty-trust-bank-uk-limited-ps76-million-further-failures-its-anti-money-laundering>

On the 10th January the FCA issued Guaranty Trust Bank (UK) Limited (GT Bank) with a fine of £7,671,800 for serious weaknesses in its anti-money laundering (AML) systems and controls between October 2014 and July 2019. The subsidiary of Nigerian financial services firm Guaranty Trust Bank Holding Company (GTCO), failed to properly assess customers, the risks of money laundering, and conduct due diligence in client relationships and transactions.

The FCA require firms to have in place effective AML controls in place to mitigate the risk of individuals and organisations using financial institutions, to bypass checks designed to prevent them benefitting from assets obtained by illegal means.

GT Bank have not disputed the FCA's conclusions and agreed to settle, which means it has qualified for a 30% discount. Without this discount, the financial penalty would have been £10,959,700.

Suitable update for: All firms

Impact for firms: Newgate's online training platform via the Gateway, offers dedicated AML training for all staff. Contact us for a free demo.

FCA Revokes French bank's Temporary Permissions

<https://www.fca.org.uk/news/news-stories/temporary-permissions-removed-firms-failing-apply-authorisation>

Lyonnaisse de Banque had its temporary permissions revoked in December for failure to submit their application for full UK authorisation via the 'landing slot' in a timely manner.

Before Brexit, financial firms based in another member state were permitted to trade in the UK, without being directly authorised by the FCA, through the Passport route. Following the UK's withdrawal from the EU the TPR (Temporary Permissions Regime) was put in place for firms to continue to operate in the UK while they applied for full FCA authorisation.

At the beginning of 2022, the FCA communicated to firms in the TPR, stating that authorisation applications should be submitted after receiving a 'landing slot' by 31st December 2022 and that failure to apply meant the firm could voluntarily cancel their temporary permissions or the FCA could take action to do so if this does not happen. Lyonnaisse de Banque are not permitted to conduct regulated activity in the UK.

Suitable update for: All firms seeking FCA authorisation

Impact for firms: Newgate's consultants comprise of ex-FCA professionals with expertise in the industry. We can provide assistance with authorisation applications and variation of permissions. Contact us today.

FCA fine Julius Baer International Limited £18m

<https://www.fca.org.uk/news/press-releases/fca-fines-julius-baer-international-limited-ps18m-and-publishes-decision-notices-three-individuals>

The FCA has imposed a fine of £18,022,500 on Julius Baer International Limited (JBI) for failing to conduct its business with integrity, failing to take reasonable care to organise and control its

affairs and failing to be open and cooperative with the FCA. JBI breached were in breach of FCA's Individual Conduct Rules, after an investigation revealed that JBI had paid \$3m in finder's fees to Yukos Group employee Dimitri Merinson for introducing Yukos' companies to Julius Baer. The group's companies placed large cash sums with Julius Baer and the company charged higher than standard rates for uncommercial FX transactions. Proceeds were then shared between Julius Baer and Merinson, with the latter receiving commission payments totalling approximately \$3m.

The FCA found the fees to be improper and JBI lacked adequate policies and procedures to manage risks arising from the firm and finders. There were also no policies that defined the rules surrounding the use of finders within JBI until after June 2010.

It has also banned three senior managers at the group: former regional head Gustavo Raitzin, former sub-regional head for Russia and Eastern Europe Thomas Seiler and former relationship manager Louise Whitestone.

JBI made an agreement settle all the issues at an early stage by partially agreeing liability, therefore qualifying for a discount. Without this, the FCA would have imposed a fine of £24.5m.

Suitable update for: All firms

Impact for firms: Newgate's online training platform via the Gateway, offers dedicated SMCR Conduct Rules and Market Conduct training for all staff. Contact us for a free demo.

FCA publicly censures former CEO of Sonali Bank UK

<https://www.fca.org.uk/news/press-releases/fca-issues-final-notice-former-ceo-anti-money-laundering-failings>

Mr Mohammad Prodhan was issued with a final notice from the FCA for acting without due skill, care and diligence and for being knowingly concerned in a breach by Sonali Bank (UK) SBUK, of its obligations to maintain effective anti-money laundering (AML) systems.

The FCA subsequently imposed a fine to Mr Prodhan, as it was their view that he failed to take reasonable steps to assess and mitigate the AML risks arising from a culture of non-compliance among SBUK's staff and also lack of oversight and management of the bank's Money Laundering Reporting Officer (MLRO) function.

The matter has been referred to the Upper Tribunal, where they will decide which appropriate

action the FCA should take, however, the proposed action outlined in the decision notice will have no effect pending the determination of the case by the Tribunal.

Suitable update for: All firms

Impact for firms: Newgate's online training platform via the Gateway, offers dedicated AML training for all staff. Contact us for a free demo.

FCA penalises Al Rayan Bank for anti-money laundering failures

<https://www.fca.org.uk/news/press-releases/fca-penalises-al-ryan-bank-plc-anti-money-laundering-failures>

The FCA fined Al Rayan Bank PLC (Al Rayan) £4,023,600 for failing to put in place adequate anti-money laundering (AML) controls, between 1 April 2015 and 30 November 2017. The bank allowed funds to pass through their accounts, without carrying out necessary checks on their customers' Source of Wealth and Source of Funds, to ensure the money was not connected to financial crime.

- In addition to this, staff lacked the proper training to handle large deposits, which further heightened the risk of money laundering. Despite the FCA raising concerns about the inadequacies of their systems, Al Rayan was aware of these weaknesses and failed to implement effective changes to fix them. Although improvements have been made, following an FCA visit in 2017, the bank remains subject to some limited restrictions while further effects are made to satisfy the regulator.

A statement by Mark Steward, Executive Director of Enforcement and Market Oversight at the FCA, states *"Al Rayan failed to manage the risk that it might be used to facilitate money-laundering. These failings create the conditions in which financial crime is facilitated and can take root within a firm. While the risk was caught in time, the failings here were egregious."*

Al Rayan have agreed to settle and will not challenge the FCA's disputes which means they qualify for a 30% discount. The FCA would have imposed a financial penalty of £5,748,000 if a settlement wasn't reached.

Suitable update for: Firms with retail and professional clients

Impact for firms: Newgate's online training platform via the Gateway, offers dedicated AML training for all staff. Contact us for a free demo.

FCA prosecutes five individuals for role in an investment scam

<https://www.fca.org.uk/news/press-releases/fca-prosecutes-five-individuals-role-all-or-nothing-investment-scheme>

Four individuals from a London based company, Bespoke Markets Group, have been prosecuted for defrauding UK investors of £1.2million via binary options investments between June 2016 and January 2020. Binary options are a high-risk 'all-or-nothing' type of investment which has not been available for retail use since 2019. Behind this type of investment, the investor forecasts the likelihood of an event happening or not and if they win, they see a return, however if they're wrong, the investors loses all their investment. The FCA found that four individuals used the defrauded money from the binary options investments, to fund their lifestyles and were later charged with offences under the Financial Services and Markets Act 2000, the Proceeds of Crime Act 2002 and an offence of conspiracy to defraud contrary to common law. A fifth individual has also been recently charged in October 2022, for perverting the course of justice relating to the FCA's investigation. Conspiracy to defraud is an offence under common law with a maximum sentence on conviction of 10 years' imprisonment. Prosecutions for the alleged investment fraud offences are listed to start in February 2023.

Suitable update for: Financial advisors, firms authorised in the consumer investments sector, investment companies, issuers of other types of investments.

Impact for firms: Newgate will be offering a Readiness Assessment, Appropriateness and Suitability Test for firms to assist with the impact of the new rules. Contact us to see how the new rules will affect you and what we can do to help.

Fraudster jailed for additional 3 years and more for defrauding investors

<https://www.fca.org.uk/news/press-releases/michael-nascimento-sentenced-failing-pay-confiscation-order>

After serving an 11-year imprisonment from 2018 for his role in a £2,8 million investment fraud scam, Mr Nascimento was jailed for an additional 1,417 days for failure to pay a confiscation order made to him on 21 June 2021. Mr Nascimento was ordered to pay the sum of £976,511.81 before the 21 December 2021, in which he has currently only paid, almost half.

The illicit proceeds derived from cold-calls and high-pressure sales tactics, persuading the members of the public to buy shares in a company that owned land on the island of Madeira. Investors were promised ambitiously high guaranteed returns of 125% and 228%, when in fact the

money was used to fund the lifestyle of Mr Nascimento.

Mr Nascimento outstanding debt will continue to be liable even after time served and all money recovered will be used to compensate the victims.

Suitable update for: Financial advisors, firms authorised in the consumer investments sector, investment companies, issuers of other types of investments.

Impact for firms: Newgate will be offering a Readiness Assessment, Appropriateness and Suitability Test for firms to assist with the impact of the new rules. Staff can also benefit from our dedicated Financial Promotions Course. Contact us to see how the new rules will affect you and what we can do to help.

FCA and PRA fine TSB Bank for operational resilience failings

<https://www.fca.org.uk/news/press-releases/tsb-fined-48m-operational-resilience-failings>

TSB Bank plc (TSB), a large UK bank, have received a fine of £48.65m for operational risk management and governance failings in relating to the migration of their systems to a new IT platform. TSB have also recently paid a fine of £32.7m to affected customers and has attempted in mid-2018 to migrate its IT systems from a legacy Lloyds Banking Group system to a new system designed, built and tested, and subsequently operated, by two group companies (together, SABIS).

The new IT platform went live on 22 April 2018, however the bank ran into serious issues with digital banking services and branch technology failures. Both the FCA and PRA found that TSB was in breach of PRA Fundamental Rules 2 and 6 and FCA Principles for Business 2 and 3.

The FCA also highlights failings on the below:

- Failure to exercise due skill, care and diligence in managing its outsourcing to SABIS by, for example, not conducting a comprehensive assessment at the outset of whether SABIS had the ability and capacity to deliver the new IT platform within agreed timelines
- Failure to ensure that the governance of its migration programme was sufficiently robust, with certain matters not being sufficiently discussed with, or challenged by, the TSB board
- TSB's inadequacy to identify and report on risks, such as non-performance or inadequate performance of SABIS.

The FCA place high importance on operational resilience, in particular in the context of outsourcing, a focus which will only increase if some of the measures set out in the [PRA Discussion Paper 3/22 & FCA Discussion Paper 22/3](#).

Suitable update for: All firms

Impact for firms: Newgate's online training platform via the Gateway, offers dedicated operational resilience training for all staff. Contact us for a free demo.

FCA fines Metro Bank £10 million

<https://www.fca.org.uk/news/press-releases/fca-fines-metro-bank-plc-decision-notice-two-former-executives>

The FCA has fined Metro Bank £10million for breaching the listing rules by publishing incorrect information to investors. Former Metro Bank CEO Craig Donaldson and former CFO David Arden were both issued with combined fines totalling £357,700. Metro Bank published incorrect information concerning its Risk Weighted Assets (RWA) figure, on which its regulatory capital requirements are based, in their third quarter trading update. Metro Bank were aware that this figure was wrong and did not rectify or explain it. As a result, Metro Bank failed to take reasonable care to ensure that the October Announcement was not false and misleading and did not omit relevant information. FCA executive director of enforcement and market oversight Mark Steward states, *"Listed firms must ensure that the information they are disclosing to the market is right. This is what investors are entitled to receive"*.

In the meantime, a Final Notice has been issued to Metro Bank, which has not been challenged, however the two Decision Notices given to both Mr Donaldson and Mr Arden, have been referred to the Upper Tribunal, where they will each present their case. The Upper Tribunal will determine whether to uphold the FCA's decisions against the two individuals or not and whether there are any other actions that should be taken by the FCA.

Suitable update for: Firms with retail clients and MIFID firms

Impact for firms: Newgate's consultants can provide assistance with reviewing FCA reporting requirements. Contact us today to discuss further

FCA fines Santander £107.7 million

<https://www.fca.org.uk/news/press-releases/fca-fines-santander-uk-repeated-anti-money-laundering-failures>

In December 2022 the FCA issued £107.7 million to retail bank, Santander for failure to properly oversee and manage its AML systems, which significantly impacted the account oversight of more than 560,000 business customers. As set out in their Final Notice, the FCA concluded that

Santander suffered from operational weaknesses in its AML framework, in respect of its Business Banking customers, from the point of onboarding through to ongoing monitoring. The bank also failed to effectively identify, assess, monitor and manage the large AML risks associated with such customers.

One example mentioned by the FCA, where a particular Business Banking customer, that was anticipated at onboarding to be a small translations business, with expected monthly deposits of £5,000, was able to transfer approximately £269m through its Santander account over a number of years. This is an extreme example which highlights the fact that AML systems and controls continue to be an area of focus for FCA enforcement action. Santander has not disputed the FCA's findings and has agreed to settle, which means it has qualified for a 30% discount. Without the discount, the financial penalty would have been £153,990,400.

Suitable update for: All firms

Impact for firms: Newgate's online training platform via the Gateway, offers dedicated AML training for all staff. Contact us for a free demo.

FCA publishes Decision Notices against three bond traders for market manipulation

<https://www.fca.org.uk/news/press-releases/fca-publishes-decision-notice-against-three-bond-traders-market-manipulation>

The FCA has fined and banned three bond traders for placing large-sized orders for future contracts in relation to Italian government bonds, that they did not intend to execute, while simultaneously placing smaller orders on the opposite end of the order book, over the period from June 1 to July 29, 2016. During this time, the three individuals were part of the Fixed Income Government Bond Trading desk at a global financial institution, where they held the position of Managing Director, Director and Associate. Following an FCA investigation, the placement of these orders, falsely presented to the market an intention to buy or sell, with the aim of impacting trading activities in the wider market. Although no monetary gain was identified by during the FCA's assessment, the conduct of market abuse was significantly highlighted when calculating the traders' bonuses.

The traders have all appealed the FCA's decisions to the Upper Tribunal, where they and the FCA will each present their cases. The decision notices issued separately to the traders on October 31, 2022 were made public on December 7, 2022.

Suitable update for: All firms that conduct trading activity

Impact for firms: Newgate online platform Gateway offers a record and approving tool to track all trade deals and staff to make use of our online Market Conduct training course.

Contact us for a free demo.


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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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