

Compliance & Risk

Volume 5, Issue 1

January/February 2016

Headlines

- China's forex regulator reassures global markets, p17
- UK police pay huge sums for telecoms surveillance, p18
- New German anticorruption law in force, p19
- CMA reviews the cloud, p.20

Contents

<i>Time for a holiday? Overtime, commission and the holiday pay problem</i>	2
<i>Practitioner's insight into the new EU Data Regulation</i>	6
<i>The Brussels Regulation (recast)</i>	12
<i>News & Views</i>	16

Thames Water fined £1m for polluting Grand Union Canal

As part of a consistent trend towards higher fines for environment offences, following the principles and tariff-based approach of the sentencing guideline introduced in July 2014 (see *CRJ Vol 3, Issues 2 and 3*), Thames Water Utilities Limited has been fined £1 million in respect of two related offences of pollution. The fine is thought to be the heaviest single penalty so far imposed under the new sentencing regime.

The Environment Agency ('EA') brought the case against Thames Water in respect of repeated discharges of polluting

matter from a sewage treatment works into the Grand Union Canal in Hertfordshire during 2012 and 2013.

Thames Water is said to have fully co-operated with the EA investigation and has rectified matters by replacing equipment involved in the illegal discharges.

The water authority also speedily submitted a guilty plea in respect of the charges under the Environmental Permitting Regulations (2010), which is likely to have resulted in a substantial discount (up to one third) of the

fine that would otherwise have been imposed.

As previously explained in this journal, under the Sentencing Guideline for Environmental Offences, another key factor for determining the magnitude of the appropriate penalty is the size of the offending organisation, by reference to turnover. In this case, the question had already been answered in previous water pollution proceedings when the Court of Appeal confirmed that Thames Water could be considered to be a 'very large organisation'.

[\(Continued on page 16\)](#)

Insider trading prosecution starts putting FCA reputation in spotlight

More than eight years after the initial investigation, code-named 'Tabernula', was launched, five of the seven men who were arrested in 2010 in an operation involving 140 officers of the UK police and the regulator, are to stand trial facing charges of insider-trading.

The indictment against them alleges that "between 1 November 2006 and 23 March 2010 [they] conspired together..

.....to deal in securities, that were price-affected in relation to inside information that a person had as an insider by reason of their employment, on a regulated market or acting as or in reliance upon a professional intermediary, and in order to profit or avoid a loss thereby".

The case has been subject to substantial problems and delays en route, almost collapsing

entirely in 2013 when barristers walked off their briefs after the amount of fees they would receive was reduced as part of the UK government's Legal Aid budget reforms.

As the case opens, the Financial Conduct Authority's ('FCA') reputation as an investigator and prosecutor of complex financial crime is thrust into the spotlight. Prior to 2008,

[\(Continued on page 16\)](#)