

Compliance & Risk

Volume 9 Issue 5

September/October 2020

Headlines

- New CMA guidance on consumer contracts affected by COVID-19, p17
- BBC pay scandal sparks rises for more than 700 female staff, p18
- KBC Ireland fined €18.3m for 'unconscionable' role in tracker scandal, p19

Contents

<i>The EU Whistleblower Protection Directive: Part 1 - scope and reporting</i>	2
<i>FCA guidance following judgment in the business interruption insurance test case</i>	6
<i>Vicarious liability of employers: Supreme Court provides welcome news</i>	10
<i>News & Views</i>	16

Westpac to pay record fine to settle money laundering case

On 24 September 2020, Westpac, Australia's second-largest lender by market capitalisation, announced that it had reached a deal with regulators to pay a civil penalty worth A\$1.3bn (\$920m) to settle a legal action over its failure to properly report millions of transactions.

The penalty, which is the largest fine in Australian corporate history, settles a case linked to money laundering in which Westpac admitted that it had not carried out customer due diligence in relation to suspicious transactions with ties to possible child

exploitation.

Austrac, the Australian financial crimes regulator, said that Westpac had failed to report international transactions worth more than A\$11bn between 2013 and 2019 in a timely fashion, had breached money-laundering and anti-terrorist financing laws on 19.5m international transfers, and had failed to pass on information related to the origin and source of some of the payments as required by law.

The regulator also alleged that court documents

showed that some of the transactions were linked to child exploitation in the Philippines.

Commentators have noted that the Australian banking sector has become more alert to the reputational damage that is suffered as a result of this type of compliance breach. Elizabeth Sheedy, a risk management expert at Macquarie University, commented, "This scandal highlighted that banks' risk management systems were not up to scratch and I'm hopeful that we are starting to see reform."

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

Deloitte to pay record £21m in relation to misconduct on Autonomy audit

The Big Four accounting firm, Deloitte, has been ordered to pay a record fine of £15m plus legal costs of £5.6m for committing serious misconduct when it, together with two of its audit partners, audited Autonomy, a former FTSE 100 technology group.

An independent tribunal found that Deloitte had failed to act with integrity, objectivity or professional scepticism when it vetted

Autonomy's financial statements and disclosures to regulators in the years leading up to its disastrous acquisition by Hewlett-Packard for \$11bn in 2011.

An \$8.8bn write-down of the value of Autonomy, a fraud investigation, court proceedings in the UK and the US, and a jail sentence for Autonomy's former chief financial officer, followed that acquisition.

Deloitte's lead audit partner for Autonomy, Richard Knights, has been banned from the accounting profession for five years and fined £500,000. A second audit partner, Nigel Mercer, was fined £250,000 and severely reprimanded. The two men left the firm in 2017 and 2016 respectively.

The tribunal ordered Deloitte to carry out a

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