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COMPLIANCE UPDATER

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Theranos founder on trial in the US.

Elizabeth Holmes, the founder of blood testing start-up Theranos went on trial in California. She is alleged to have purposely misled doctors and patients when promoting Theranos technology and misrepresented the company's financial position and prospects to investors. Theranos had reached a valuation of $9bn before evidence accumulated against the accuracy of its blood testing technology.

WhatsApp fined €225m for GDPR breaches.

Ireland became the latest to fine a large tech company for breaches of the General Data Protection Regulation (GDPR). This followed on from Luxembourg's €746m record fine for Amazon in July and Ireland's own €450m fine for Twitter over its failure to report a leak within seventy-two hours. The Irish Data Protection Commissioner fined WhatsApp €225m for failing to tell users how it was sharing their data with parent company Facebook.

FCA chair calls for more powers over crypto.

Charles Randell, the chair at the UK's Financial Conduct Authority (FCA) echoed the thoughts of Gary Gensler, chair of the US Securities and Exchange Commission (SEC), by calling for a larger role in controlling the market for crypto assets. He specifically pointed to the need for action to stop social media influencers from facilitating the "pumping and dumping" of new coins. He referenced Kim Kardashian's recent encouragement of her Instagram followers to speculate on cryptocurrencies.

Britain considering ditching EU data rule on AI.

The UK government has suggested that it is considering deleting Article 22 of the GDPR that guarantees people can seek a human review of an algorithmic decision. The rule has been argued as "burdensome, costly and impractical" for organisations using artificial intelligence (AI). A deletion may put the UK's status as an adequate country from the EU's perspective in doubt.

Dear CEO from FCA re trade finance.

In the light of the collapses of Greensill Capital and Singaporean oil trading firm Hin Leong Trading, the UK's FCA and PRA sent a "Dear CEO" letter highlighting the need for a full financial crime risk assessment to detect money laundering, sanctions evasion, terrorist financing and fraud, particularly in commodity and trade finance firms.

FCA director says UK listing regime is "stuck in 1984".

The director of market oversight at the UK's FCA described the UK listing regime as "still stuck in 1984". There are concerns that London is falling behind other centres and there are consultations on changes, such as a plan to allow dual class share structured companies into FTSE indices.

German fund manager made €8.1m from front running trades.

A former fund manager at German asset management firm Union Investment revealed his motivations to judges as he faced charges for front running his firm's own trades. The senior fund manager worked for Union Investment in Frankfurt for sixteen years and was overseeing actively managed equity funds with €31bn in assets. He admitted front running on fifty-five occasions making €8.1m in net profit. In one example he spent €913k on call options on Deutsche Post shares seconds before placing a large order on behalf of Union that moved the share price by two point seven per cent. He sold the options within an hour making €227k profit. He started front running motivated by disappointment over his pay of €440k in 2019 and receiving only half the pay rise he had hoped for. He was also motivated to make back the losses he had suffered on his own investments in collapsed payment processor Wirecard. The opportunity to commit the offences was provided by the coronavirus pandemic – everyone else was working at home with only the fund manager and a junior colleague in the office. The fund manager also fed information to a friend at a private bank who traded on the information twenty-nine times, making €380k.

UK to review the appointed representative regime.

The UK chancellor Rishi Sunak accepted that a review is necessary to the appointed representative regime within financial services. The acceptance came in the light of the Greensill scandal – Greensill was based in the UK, arranging tens of billions of pounds in financing each year but largely escaped direct UK regulatory oversight due to its appointed representative status. Sam Woods, deputy governor for prudential regulation at the Bank of England, told a committee of MPs that the appointed representative regime was designed forty years ago for self-employed salespeople rather than the likes of Greensill.

Swedish regulator opens market abuse investigation.

The Swedish Financial Supervisory Authority is investigating listed private equity group EQT after controversial sales of $2.7bn worth of shares by top executives. EQT IPO'd in 2019 and revealed a lock-up agreement that was due to run until 2022. It then announced on 7th September 2021 that sixty-three million shares would be sold by former partners. The justification appears to be to boost the liquidity in the stock.

Grant Thornton fined £2.3m for audit failings.

Professional services firm Grant Thornton was fined £2.3m plus costs of a further £650k by the Financial Reporting Council for a “serious lack of competence” over its audits of collapsed café chain Patisserie Valerie. The individual leading the audit was also fined almost £88k and banned from carrying out statutory audits for three years. Patisserie Valerie fell into receivership in January 2019 amongst allegations of fraud and had received clean audit reports from Grant Thornton for 2015, 2016 and 2017.

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