COMPLIANCE

UK Calls Financial Firms To Treat PEPs Fairly After 2023 Debanking Storm

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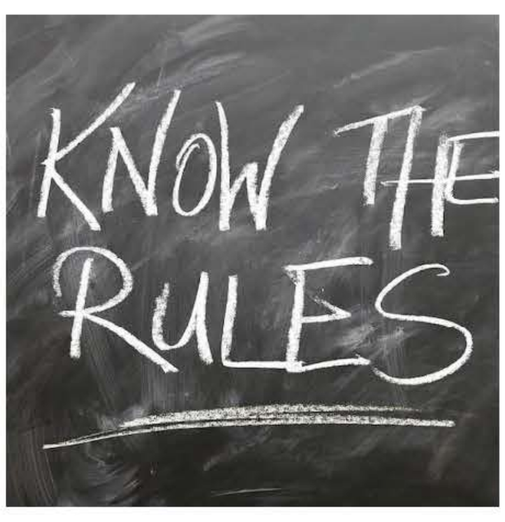

The FCA wants financial firms to be careful about the way they handle politically exposed persons. Its recommendations stem from controversy last year over the debanking of a political leader, and similar cases involving a number of other people in the public eye. Separately, there are concerns over the reasons why banks shut accounts.

The UK's Financial Conduct Authority has told financial firms – including banks, payment firms and lenders – to do more to ensure that parliamentarians, senior public servants and their families are not treated unfairly.

The watchdog is acting after last year's controversy over Coutts debanking Nigel Farage, who is now leader of the Reform Party and a Member of Parliament.

The FCA said that while it found that most firms did not treat politically exposed persons (PEPs) with undue severity, it said they should ensure that their definition of a PEP, family member or close associate is tightened to the minimum required by law and not go beyond that.

"Public service naturally comes with greater scrutiny. But it must be proportionate and shouldn't disadvantage people running for office or taking senior public roles, or their families," Sarah Pritchard, the FCA's executive director of markets and international, said. "That requires a balancing act. Most firms try to get it right but there is more they can do. We're following up with those firms that were getting the balance wrong to ensure they make changes."

"We have heard directly from some parliamentarians about the problems they and their families have faced. We have been clear where we expect firms to make improvements, including in how they communicate with their customers," she said.

In other steps that firms should take, the FCA said they should review the status of PEPs and their associates promptly once they leave public office; tell PEPs effectively and in line with the Consumer Duty, explain the reasons for their actions where possible; effectively consider the actual level of risk posed by the customer, ensuring that information requests are proportionate to those risks; and improve the training offered to staff who deal with PEPs. (The Consumer Duty is designed to improve how financial firms serve clients, and came into force last July.)

The Farage episode
Last summer, Farage, who had been a client of Coutts – part of NatWest Group – complained about how Coutts had offloaded him as a client, alleging that he had been targeted for his views on issues such as climate change, Brexit and immigration. At one point, there was speculation on whether Farage was classed as a PEP. He was not an MP at the time of the controversy last year. He has been an MP since 5 July. Prior to this, Farage had been a member of the European Parliament, leaving it after the UK voted for Brexit. (See the editor's comment on this issue.)

The saga led to the resignation of NatWest CEO Dame Alison Rose and Coutts CEO Peter Flavel, following anger at how the banking group had handled Farage's case. (Rose was criticised for discussing the case with a journalist.) Figures including former Prime Minister Rishi Sunak called for authorities to act. It emerged that other political figures, such as anti-Brexit campaigner Gina Miller, had been debanked. Dominic Lawson, the son of former UK Chancellor, Nigel Lawson, wrote that he had struggled to open a Barclays account for his daughter. (He was later able to do so.)

Under legislation adopted by Parliament, financial firms are required to do extra checks on PEPs. This follows global standards set by the Financial Action Task Force and implemented by more than 200 jurisdictions.

Some firms have already started to make improvements following the change in January 2024, which made the legal starting point that UK PEPs and their associates present a lower level of risk than foreign PEPs, the regulator said.

In a small number of cases, the FCA is instigating an independent and more detailed review of firms' practices, it said.

The FCA said it will continue to monitor how firms handle PEPs. If these people are unhappy, they can complain to the firm and then the Financial Ombudsman Service. Some firms also have dedicated points of contact for PEPs. (See a story here from last year about the FCA's review of the matter.)

Over the top?
Separately, the UK's think tank, Institute of Economic Affairs, recently criticised de-banking in the UK and the way that AML laws operate in a report in 2021/22. UK banks closed 343,000 accounts. In about half of those cases, the reason was that the bank could not satisfy itself that the customer was not involved in money laundering or other financial crimes, the report said. Out of all those debanked in that period only 1,083 people in the UK were convicted of money laundering (HM Government 2023: 10). In the same year, banks closed the accounts of about 170,000 people who did not satisfy their AML due diligence (this being half of the 343,000 accounts closed in total).

"This means that about 169,000 people were effectively fined a non-negligible sum for money laundering on the basis of evidence inadequate even for arrest, let alone conviction. The situation ought to be intolerable to a government committed to the rule of law," Jamie Whyte, author the IEA report, said.

On the PEP issue, Whyte said the number of political account closures is probably small, because few people are PEPs and "few people express political opinions misaligned with the ideological commitments of their bank in a way that would come to their bank's attention."

"The FCA's recent survey of UK financial firms regarding their reasons for closing accounts did not answer the question. The four cases where banks initially said they closed accounts because of the political views of customers turned out to be caused by threatening or abusive behaviour by the customer. However, banks said they closed many more accounts for reasons of reputational risk," Whyte wrote.

In other comments, Whyte said: "Banks are not crime-fighting agencies. They are profit-seeking businesses. Their decision-making is guided not by principles of justice but by revenues and costs, including the cost of risk. This means that, very valuable customers aside, they will be inclined to close the accounts of customers who present some prima facie risk of money laundering, even when they have evidence that falls well short of the standard required to gain a criminal conviction for money laundering."

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