

Approved Persons Zone

What does the new FSA regime mean for individuals who are approved persons (and particularly SIFs)?

The UK is unusual in that it has a separate layer of regulation which regulates individuals (known as approved persons) directly, as well as parallel regulation of the authorised firms for whom they work. The FSA approved persons regime has developed over the years into a powerful regulatory tool; approved persons are subject to their own rule book (APER) and to personal enforcement action and fines.

The FSA places increasing emphasis on the personal accountability of individuals holding SIF positions, such as directors, NEDs and an increasing list of "internal policemen" ranging from chairman of the risk committee to the client asset oversight function.

Changes to the SIF approved persons regime

The approved persons regime is moving away from the current 'one size fits all' approach, where anyone holding approval for a director or NED function can take on a wide variety of senior roles. The FSA is now requiring firms to be more specific about exactly who will be doing what within senior management, and for approved individuals this means more personal accountability.

- Click [here](#) to access our summary table of the key changes affecting corporate governance by FSA and other bodies, including changes to the approved persons regime
- Click [here](#) to access the FSA's policy statement PS10/15, which sets out final rules on the approved persons regime. The new regime is essentially as consulted on in CP10/3 - click [here](#) for a summary and discussion of the regime as put forward in CP10/3
- Click [here](#) to review our Law-Now article on the FSA's consultation on client asset protection, which includes a discussion of the client officer controlled function. Click here for the FSA's policy statement PS10/16, which contains final rules on the CASS operational oversight function and how it will apply (chapter 5)
- Click [here](#) to view HM Treasury's consultation paper "Establishing resolution arrangements for investment banks", which includes discussion of a possible new role of business resolution officer, and here for a summary of responses
- Click [here](#) for our detailed briefing on FSA's new "Parent Entity SIF" controlled function (CF00), which examines the impact on firms of the new CF00 and provides step-by-step guidance on how to determine who falls within its scope. The new CF00 controlled function had been scheduled to come into effect on 1st May 2011, but now FSA has now announced that it is delaying the implementation of the new CF00 category because its Online Notification and Application (ONA) system is not yet ready to accept new applications and notifications. At least two months' notice will be given for the new implementation date. Watch this space.

NEDs

The FSA is focusing on the role of NEDs at financial institutions, and considers them to play a key role in policing board activity and risk-taking within firms.

For more on the role of NEDs and how the changes in corporate governance regulation affect NEDs, click [here](#) to enter the NEDZone.

Enforcement

Personal accountability for approved persons is a key theme for FSA. Failings in corporate governance practices can and have formed the basis of enforcement action, even where breaches are limited to the failure to follow appropriate procedures and have not led directly to detriment to customers or the firm.

FSA is bringing more and more enforcement action against approved persons, and is imposing ever greater fines on firms and individuals where it finds breaches.

- Click [here](#) for details of the FSA's financial penalties regime, introduced earlier this year, which could see firms and individuals receiving fines of up to three times more than previously
- Click [here](#) for our report on FSA's consultation on increased enforcement powers, which includes a proposal to prevent firms from paying fines on behalf of approved persons
- For more information on FSA enforcement and the potential consequences for approved persons of not meeting FSA's requirements, click [here](#)

How can we help?

Cameron McKenna provides briefings and training for approved persons on their roles and responsibilities, and assistance with preparation for SIF and ARROW interviews – please contact [Simon Morris](#) for further details

We also have a programme of seminars on the latest corporate governance developments and issues – click [here](#) to view our calendar of forthcoming events.

Useful materials

Click [here](#) for a **summary of the proposals put forward in the Walker Review** and how these are to be implemented, and [here](#) for the **FSA's summary** of how it has implemented the Walker recommendations (page 51)

Click [here](#) to access our **corporate governance planning tool**

Click [here](#) for an archive of **resources** on corporate governance

Click [here](#) for an archive of **recent publications** on corporate governance by FSA and other bodies

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