

FSA POLICY AND FEEDBACK STATEMENTS – 2009

Title	Short Summary	
PS09/1: Temporary short selling measures - Feedback on CP09/1	<p>FSA has confirmed that it will extend its disclosure obligation for short selling of stocks in UK financial sector companies until 30 June 2009. It notes that it received strong support for the proposals on the recent consultation. Disclosure of a net short position in the stock of a UK financial sector company will continue to be required once a position reaches 0.25% of a relevant firm's issued share capital. However, from 16 January 2009, further disclosure will only be required if a short position changes by a further 0.1% of issued share capital (i.e. at 0.35%, 0.45% etc). FSA will allow the ban on short selling stocks in UK financial sector companies to lapse with effect from 00:00:01 on 16 January 2009, permitting short selling of these stocks on Friday. FSA plans to issue a further CP with proposals on longer-term options for a short selling regime within a few weeks.</p>	http://www.fsa.gov.uk/pubs/policy/ps09_01.pdf
PS09/2: Rights issue subscription periods - Feedback on CP09/4 and final rules	<p>FSA notes that it has decided to reduce the Listing Rules' minimum rights issue subscription period to 10 business days. This is a minimum duration and issuers and their advisers are free to conduct their rights issues over a longer period as they see fit. In addition to changing LR 9.5.6 R, FSA has made consequential amendments to LR 9.5.15(2)(h) R and LR 14.3.9(2)(g) R, which also relate to the duration of rights issue subscription periods. As part of the review of the structure of the listing regime, FSA will consider the appropriateness of the latter rule applying to overseas companies as well as to UK companies. It will consult at a later date on two other issues coming out of the Rights Issue Review Group report: compensatory open offers; and a small change to document vetting fees in relation to equity shelf registration. In addition, the RIRG report set out a number of other recommendations which FSA will also take forward, but which at present do not call for changes to the Handbook or other requirements. The PS includes the text of the FSA Instrument which comes into force today, 10 February 2009.</p>	http://www.fsa.gov.uk/pubs/policy/ps09_02.pdf
PS09/3: Rights issue subscription periods - Feedback on CP09/4 and final rules	<p>CP08/17 set out the background to the issue of disclosure of CFDs, FSA's overall policy objectives, the options that it set out in CP07/20 to secure those objectives and the feedback that we had received on those options. FSA reports that it received broad support for the overall approach of the proposed rules and is in general implementing the new requirements on the basis set out in CP08/17. However, in relation to the basis on which disclosures should be calculated (nominal or on a delta-adjusted basis) FSA decided that disclosures should be made on a delta-adjusted basis, as this is a more accurate reflection of the actual exposure. To allow more time to adapt to this new requirement, FSA will allow reporting on either a nominal or a delta-adjusted basis for a transitional period of seven months from implementation. Where firms report on a nominal basis during this period FSA will require sufficient information, additional to that already disclosed under DTR, in order to allow market participants to calculate the underlying exposure more accurately. Originally, FSA had intended to bring the new rules into force in September 2009, but in the light of the changes in market conditions since</p>	http://www.fsa.gov.uk/pubs/policy/ps09_03.pdf

Title	Short Summary	
	last summer and the need for increased transparency driven by these changes, it has decided to bring the implementation date forward to 1 June 2009.	
PS09/4: Implementation of the Payment Services Directive - changes to the FSA Handbook Feedback on CP08/14 and final rules	This PS reports on the responses received and sets out, in final form, the Handbook rules and guidance, which will apply from 1 November 2009 in addition to the Payment Services Regulations. In general, respondents supported FSA's approach, but concerns of principle and practicalities were raised over some of the issues, in particular, the proposal to extend FOS's jurisdiction to cover complaints about one-leg transactions. FSA notes that it has decided to adopt the policies as set out in CP08/14, with some minor redrafting to clarify certain matters. It has also taken up the suggestion from a respondent that it should follow the same procedural safeguards in determining whether to publicly censure a firm as it would to impose a financial penalty.	http://www.fsa.gov.uk/pubs/policy/ps09_04.pdf
PS09/4: Fees and levy policy and certain regulatory fee and levy rates 2009/10 - including feedback on CP08/18 and part of CP09/7	This PS sets out feedback and final rules on FSA fees and FOS levy policy proposals in our CP08/18. It also includes feedback and final rules on proposals in CP09/7 for certain FSA periodic fee rates, application fee rates and the proposed FSCS management expenses levy limit. FOS fee rates and policy changes and the FOS levy and FSCS management expenses level limit covered by this PS will come into effect from 1 April 2009 for the financial year 2009/10. The fee-payers affected by Chapter 6 will be invoiced for their first fee instalments in April 2009. Consultation remains open on several of the proposals in CP09/7, which had a deadline for responses of 6 April 2009. In the light of responses to the proposals for PSD (new scope activities), consulted on in Chapter 12 of CP09/7 – and subject to FSA Board approval – FSA will publish feedback and final rules in the April 2009 Handbook Notice. It will publish feedback and final rules on the remaining issues still open for consultation in the annual Consolidated Policy Statement in May/June 2009. Fee-payers will be invoiced from March for on-account payments and other firms will be invoiced for FSA periodic fees and FSCS and FOS levies from June 2009 onwards.	http://www.fsa.gov.uk/pubs/policy/ps09_05.pdf
PS9/6: Regulating retail banking conduct of business - Feedback on CP08/19 and final rules	FSA notes that, in general, respondents supported the proposals, but requested clarification or further information on certain aspects. FSA has decided to implement the new framework proposed and thus a new Banking and Payment Services (BPS) conduct regime, covering all retail banking services within our remit, will take effect from 1 November 2009. This will comprise BCOBS and the PSRs. Further information on the BPS conduct regime and the relationship between BCOBS and the PSRs is provided in Annex 2 to this PS. The final text of the Handbook rules and guidance made is in Appendix 1 to this PS. To reflect the policy intention more clearly and as a result of responses received, FSA has made the following main changes: clarified in BCOBS 1 how BCOBS interacts with the PSRs; redrafted BCOBS 4 to require appropriate information and statements to be 'provided or made available'; inserted guidance at the beginning of BCOBS 4 to clarify when appropriate information should be 'provided or made available'; added guidance relating to disclosure of how	http://www.fsa.gov.uk/pubs/policy/ps09_06.pdf

Title	Short Summary	
	<p>interest is calculated, changes to charges, the availability of basic bank accounts and the cheque clearing process; added a rule, similar to that in the PSRs, on charges for statements; added guidance, under FSA's post-sale service rule, on the processing of payment instructions and guidance that refers to the BBA Statement of Principles; and inserted a reference to the EU Switching Principles and the BBA/BSA/TISA cash ISA transfer guidelines. FSA has also identified several areas where additional rules or guidance may be desirable but where further cost benefit analysis and consultation is required. It plans to consult in July on additions to BCOBS, including: provisions relating to liability for losses for un authorised transactions outside the scope of the PSRs; provisions on the advance notification, where practicable, of changes to interest rates that are to a customer's disadvantage (including bonus interest rates coming to an end); a rule to mirror COBS 2.1.2R on exclusion of liability; and transitional provisions. Any transitional provisions would be effective from 1 November 2009. FSA is also undertaking further work on whether it should introduce any new requirements in relation to the provision of advice on deposits, including structured deposits. BBA and BSA are currently developing industry guidance that would provide suggestions on the ways in which firms could meet the requirements under BCOBS and will consult other stakeholders on this. This guidance is also expected to contain material on consumer credit, which will continue to be monitored by the BCSB or a successor organisation. FSA further notes that it received a strong message from respondents about the value of the Banking Code as consumer-facing information and plans to develop information for consumers that clearly outlines their rights under BCOBS and the PSRs and what they can expect from their retail banking provider - it plans to publish findings shortly.</p>	
<p>PS09/7: Financial Services Compensation Scheme: Review of limits - Feedback on CP08/15 and made rules for non-deposit limits</p>	<p>FSA has announced that it is implementing its proposals in CP08/15 without amendment. These are: an increase in the limit for investments and home finance mediation to 100% of £50,000; and amendment of the limit for provision of non-compulsory life and general insurance and mediation of non-compulsory non-investment insurance to 90% of the whole claim, with no upper limit. The limit for provision and mediation of compulsory insurance will continue to be 100% of the claim, with no upper limit. FSA notes that it had asked whether respondents agreed with the changes that had been made in respect of deposits without consultation. A further increase to the deposit limit may be needed to reflect a subsequent change to the Deposit Guarantee Schemes Directive, but this is not yet certain. If such a change proves necessary, then FSA will consult on that in due course. The new limits will come into force on 1 January 2010, to allow firms to make the necessary changes to their disclosures to consumers to reflect the new limits.</p>	<p>http://www.fsa.gov.uk/pubs/policy/ps09_07.pdf</p>
<p>FS09/1: Insurance Risk Management: The Path to Solvency II</p>	<p>FSA summarises the comments received to the questions posed in the DP08/4 and gives its responses to them. FSA emphasises that it is essential for the UK insurance industry to fully engage now in preparing for the new Solvency II regime – “if firms are yet to do so, senior management should consider now the implications for their business and start planning immediately to ensure compliance with the new rules”. The FS also includes</p>	<p>http://www.fsa.gov.uk/pubs/discussion/fs09_01.pdf</p>

Title	Short Summary	
Feedback on DP08/4	an update to the messages in DP08/4 in light of the Solvency II Directive as adopted. FSA plans to communicate further with stakeholders as the implementation process continues to progress. In Chapter 7 of the paper, FSA provides details of these plans with respect to forthcoming thematic reviews. At a European level, it has also included the CEIOPS consultation schedule for 2009.	
PS09/8: Consolidated Policy Statement on our fee-raising arrangements and regulatory fees and levies 2009/10 - Including feedback on CP08/18, CP09/7 and 'made rules'	Part A (Sections I – III) contains the Consolidated Policy Statement on FSA's fee-raising arrangements; and Part B (Sections IV - VI) presents the 2009/10 FSA fee rates and FOS levy following consultation in CP09/7, and provides feedback on the comments received and the remaining fees policy proposals from CP09/7 and CP09/18. FSA will invoice fee payers from June 2009 onwards for their 2009/10 periodic fees.	http://www.fsa.gov.uk/pubs/policy/ps09_08.pdf
PS09/9: Regulating sale and rent back: an interim regime - Feedback on CP09/6 and near-final rules	FSA has published a PS and "near final" rules which it aims to introduce on 1 July 2009. It explains that FSA is taking a two stage approach to regulating this market. An interim regime will be brought in as soon as any statutory changes come into force (expected on 1 July) in order to address the most immediate problems for consumers, followed by a more comprehensive regime which will start on 30 June 2010. Under the interim regime firms will need to meet FSA threshold conditions including the requirement to have adequate resources and to be run by fit and proper people. Firms will also have to comply with the Principles for Businesses and meet a number of systems and controls and conduct of business rules. Firms that are currently unauthorised and that intend to carry on any of the new SRB regulated activities after the commencement of the interim regime will need to apply for interim permission. Similarly, firms that are currently authorised for other activities will need to apply for interim variation of permission. Firms are encouraged to start preparing now for authorisation and to apply as soon as the interim regime starts.	http://www.fsa.gov.uk/pubs/policy/ps09_09.pdf
PS09/10: Extension of the short selling disclosure obligation Feedback to CP09/15	For the reasons set out in CP09/15 and after taking into account all the comments received (including majority support for the extension), FSA is extending the Disclosure Obligation without time limit. These changes will become active at 00:00:01 hours on 30 June 2009. FSA expects to issue a FS summarising the responses received to DP09/1 in Q3 2009 including feedback on alternative methods of increasing transparency. It will also continue to engage in the international dialogue on short selling.	http://www.fsa.gov.uk/pubs/policy/ps09_10.pdf
PS09/11: Banking and compensation	FSA highlights the following key changes in the new rules: ensuring that firms keep up-to-date information on customers to allow quick processing of claims by FSCS if needed (the 'Single Customer View'); changing the	http://www.fsa.gov.uk/pubs/policy/ps09_11.pdf

Title	Short Summary	
reform - including feedback on CP08/23, CP09/3, CP09/11 and CP09/16	payout of compensation to avoid customers who hold loans and deposits with the same firm having any debt deducted from their compensation (gross payout); widening eligibility of the scheme to include more individuals; introducing a requirement that deposit takers must disclose the existence of FSCS and the level of protection it offers to help familiarise consumers with the services it provides, and if a firm operates under a number of trading names, it must tell its customers which of the different trading names are covered by a particular authorisation. FSA has introduced changes to the calculation of payment of compensation on term accounts, which will mean that compensation is calculated as at the date of default. FSA has also extended, until 30 December 2010, its interim rules which allow separate compensation cover for customers with deposits in two merging building societies. The same extension has been made for customers of a building society which merges with a subsidiary of another mutual society, and for customers who deposits are transferred from a failed firm to another deposit taker where they already have an account. Fast payout rules, which come into force on 31 December 2010, will mean many individuals and small businesses will receive compensation within a target of seven days, and all payments within 20 days as required under the Deposit Guarantee Schemes Directive.	
PS09/12: Regulating Reclaim funds - Feedback on CP09/8 and final rules	CP09/8 set out proposals that FSA believed would deliver a proportionate and effective regime, maintaining an equivalent level of protection for customers whose money has been transferred to a reclaim fund. This included continued coverage by FOS and FSCS for such customers. Due to the unique nature of a reclaim fund's activities, FSA proposed to impose most of its prudential requirements through a fund's Part IV permission. The changes to the Handbook set out in Appendix 1 will come into force on 6 August 2009. FSA notes that it is prepared to work with interested applicants on a pre-application basis straightaway.	http://www.fsa.gov.uk/pubs/policy/ps09_12.pdf
PS09/13: With-profits funds - compensation and redress	FSA has confirmed that proprietary life insurance companies will not be able to meet future compensation and redress payments from their with-profits funds. These changes mean that any liabilities arising from operational failures (including misselling) after the rule comes into effect on 31 July 2009 must be borne by shareholders not policyholders. FSA notes that it received over 230 responses to its consultations, with a large number of MPs, individuals and organisations representing consumer interests objecting to the proposal as being too weak. It further noted that a small number of firms strongly opposed the proposal and questioned whether FSA's powers under FSMA permitted it to make the proposed rule changes.	http://www.fsa.gov.uk/pubs/policy/ps09_13.pdf
PS09/14: The approved persons regime - significant influence function review - feedback on CP08/25 and	FSA has confirmed an extension of the approved persons regime for those that perform a 'significant influence' function at firms. In particular, FSA has: <ul style="list-style-type: none"> • extended the scope and application of CF1 and CF2 to include those persons employed by an unregulated parent undertaking or holding company, whose decisions or actions are regularly taken into account by the governing body of a regulated firm; • extended the definition of CF29 to include all proprietary traders who are not senior managers but who are 	http://www.fsa.gov.uk/pubs/policy/ps09_14.pdf

Title	Short Summary	
final rules	<p>likely to exert significant influence on a firm; and,</p> <ul style="list-style-type: none"> amended the application of the approved persons regime to UK branches of overseas firms based outside the EEA. <p>Changes will come into effect on 6 August 2009 with a transitional period of six months. Firms are advised to begin assessing which individuals require approval and submit timely applications to comply with the end of the transitional period. It is noted that the original proposals included clarifying the role of NEDs to make clear that FSA will look at NEDs more closely where it believes they should have intervened more actively within a firm's management. Before making a final decision on this issue, FSA wishes to consider the relevant recommendations of the Walker Review and the FRC's review of the Combined Code. The results of this consideration will be included in a further CP on governance which FSA expects to publish in Q4 2009.</p>	
PS 09/15: Reforming remuneration practices in financial services Feedback on CP09/10 and final rules	<p>FSA has now published the above, noting that eight principles have also been added to the FSA handbook to ensure firms understand how FSA will assess compliance. The code makes clear that it is not expected that firms will enter into contracts with individuals which provide guaranteed bonuses for more than one year. It is also expected that for senior employees two-thirds of bonuses will be spread over three years. Firms are expected to provide FSA with a remuneration policy statement by the end of October. This will have to be signed off by remuneration committees and will enable FSA to check compliance with the code. Non-compliant firms could face enforcement action or be forced to hold additional capital should they pursue risky processes. The key steps for the implementation of the new regulatory framework will be:</p> <ul style="list-style-type: none"> By the end of August FSA will send letters to firms' remuneration committees asking them to complete a remuneration policy statement. Firms return their remuneration policy statements to FSA by end-October. FSA will hold meetings with remuneration committees and HR/risk function staff between November 2009 and February 2010. The Code on remuneration practices comes into force for firms within its scope on 1 January 2010. The transitional arrangements for firms required to amend employment contracts that may be amended by the firm end on 31 March 2010. Transitional arrangements for firms required to amend or terminate other employment contracts end on 31 December 2010. 	http://www.fsa.gov.uk/pubs/policy/ps09_15_newsletter.pdf
FS09/2: Consumer responsibility - feedback on DP08/5	<p>This FS reaffirms FSA's regulatory approach to balancing the responsibilities of consumers and firms. DP08/5 articulated how FSA considers consumer responsibility in its decision and policymaking. FSA notes that responses reflected a variety of views and there was no consensus. In the absence of wider agreement on the balance of responsibilities lies between firms and consumers, FSA will maintain its current approach.</p>	http://www.fsa.gov.uk/pubs/discussion/fs09_02.pdf

Title	Short Summary	
FS09/3: A regulatory response to the global banking crisis - Feedback on DP09/2	<p>FSA has published a response to the feedback it received to the Turner Review and associated DP. This sets out FSA's analysis of the responses received and reports on the progress made since March, in implementing change and in achieving international agreement. Respondents generally agreed with the analysis of the Turner Review and the broad approach it proposed. The majority offered clear support for the analysis of causes, the main recommendations and FSA's supervisory approach as detailed in the Turner Review and DP. Key issues raised by respondents were: an international approach was needed when looking at policy options; concerns were raised that any measures implemented by the UK alone could damage London's competitiveness; large firms were against increased requirements for systemically important firms; and the need for an impact assessment of the 'whole package' of reform to be carried out. FSA notes that the strongest concern was the need for international consistency in formulation and implementation of the regulatory policy response to the crisis. FSA plans to issue a further DP in October, ahead of the Turner Review conference on 2 November, which will focus on key areas including:</p> <ul style="list-style-type: none"> • Systemically important firms: the new DP will address the issue of how to identify 'systemically important firms', the policy tools available and how they might be applied. This will include discussion of the possible design of living wills and their implementation at both national and global level. • Cumulative impact of capital and liquidity reforms: the new DP will consider methodologies for making these trade-offs between costs of intermediation and financial stability. <p>The new DP will be published ahead of the second Turner Review conference which is being held on 2 November 2009. (30/09/09)</p>	http://www.fsa.gov.uk/pubs/discussion/fs09_03.pdf
FS09/4: Short selling: Feedback on DP09/1	<p>FSA now published the above and notes that, given that important international initiatives on short selling remain ongoing, it does not plan to publish any proposed rule changes at this stage. Instead, it is using the FS to set out its policy stance in light of the responses received and relevant developments since the DP was published. FSA notes that CESR's proposals on a short selling disclosure regime - published since the DP came out - include the idea for private disclosures to regulators at 0.1%. FSA states that it is open to the possibility of requiring private disclosures at the lower threshold. FSA will continue to work with CESR to develop an agreed European disclosure policy for short selling.</p>	http://www.fsa.gov.uk/pubs/discussion/fs09_04.pdf
PS09/16: Strengthening liquidity standards including feedback on CP08/22, CP09/13, CP09/14	<p>FSA has published its final rules on the liquidity requirements expected of firms which include: an updated quantitative regime coupled with a narrow definition of liquid assets; over-arching principles of self-sufficiency and adequacy of liquid resources; enhanced systems and controls requirements; granular and more frequent reporting requirements; and a new regime for foreign branches that operate in the UK. FSA notes that it will not tighten quantitative standards before economic recovery is assured and plans to phase in the quantitative aspects of the regime in several stages, over an adjustment period of several years. The precise amount of liquidity that each firm will need to hold will be refined over time to ensure that the combined impact of higher</p>	http://www.fsa.gov.uk/pubs/policy/ps09_16.pdf

Title	Short Summary	
	capital and liquidity standards is proportionate. Qualitative aspects of the regime will be put into place by December 2009.	
PS09/17: Close links - feedback on CP07/21	FSA notes that it will be: removing the annual report requirement for those firms that report their close links on a monthly basis; allowing groups to submit a single close link notification on behalf of all firms in the group; introducing mandatory forms for event-driven or monthly close link notifications for individual firms and groups; and allowing firms who choose to report on a monthly basis to submit a post-change organisational chart on a quarterly basis. Rules come into force on 1 June 2010.	http://www.fsa.gov.uk/pubs/policy/ps09_17.pdf
PS09/18: Financial Services Compensation Scheme reform Single customer view - verification	This PS contains policy, feedback to consultation responses and made rules on how FSA will verify and supervise a deposit takers SCV system. Formal verification requirements will start from July 2010 and the SCV needs to be implemented by 31 December 2010. Smaller deposit takers can send us their notification from 6 December 2009.	http://www.fsa.gov.uk/pubs/policy/ps09_18.pdf
PS09/19: Review of the prudential rules for Personal Investment Firms (PIFs) Feedback to CP08/20 and CP09/20 (Chapter 11)	<p>FSA notes that, under the new rules, all PIFs will have to hold capital resources worth at least three months of their annual fixed expenditure in realisable assets such as cash. The minimum capital resources threshold for any firm will be set at £20,000. Requiring PIFs to hold more capital resources will enable firms to provide redress for consumers and limit the compensation due from FSCS in the event that they are wound up. Following feedback from the industry, the transition to the new regime has been extended by a year to 31 December 2013, allowing firms more time to comply with the requirements. Firms will also be able to take into account any changes arising from the RDR. FSA is to consider how expenditure-based capital resources requirements can be applied consistently to all PIFs, particularly those with commission-based business models and will also consult in 2010 on an appropriate prudential regime for pension and third party administrators.</p> <p><i>Addendum (1/08/11): FSA: PS09/19: Review of the prudential rules for Personal Investment Firms (PIFs) Feedback to CP08/20 and CP09/20 (Chapter 11)</i></p> <p>FSA has now announced that FSA has deferred the introduction of new capital rules for personal investment firms for two years to allow firms more time to prepare. Phasing in of the new rules will now commence on 31 December 2013 with the full requirements in place by the end of 2015, giving firms who need it more time to build up their capital resources to the required levels.</p>	http://www.fsa.gov.uk/pubs/policy/ps09_19.pdf PS09/19: Review of the prudential rules for Personal Investment Firms (PIFs) Feedback to P08/20 and CP09/20 (Chapter 11)
FS09/5: Reforming Remuneration Practices in Financial Services	FSA notes that its remuneration code comes into force for large banks, building societies and broker dealers on 1 January 2010 and will apply to any remuneration awards made by these firms for the 2009 performance year. Chapter 6 of the March CP invited general discussion on whether the code should be extended to other FSA-authorized firms. At this stage, FSA has decided not to introduce any new rules and will not extend the rules to	http://www.fsa.gov.uk/pubs/discussion/fs09_05.pdf

Title	Short Summary	
Feedback on Chapter 6 of CP09/10	other sectors. FSA emphasises that its supervisory focus is on ensuring that the firms which are within the initial scope of the remuneration code are fully compliant from 1 January 2010. FSA is to undertake a review of the effectiveness of the remuneration code in mid 2010. At that stage, as well as taking into account the lessons learned from this year's exercise, FSA will take into account: the wider European work that touches on remuneration: a number of directives containing remuneration provisions are currently at different stages of European negotiation; the elements of the Walker Review that focused on remuneration; and the progress of the Financial Services Bill which may give new powers to FSA in respect of remuneration. In addition, FSA is reviewing remuneration policy statements supplied by firms and follow-up meetings have been arranged or held.	
PS09/20: Stress and Scenario Testing - Feedback on CP08/24 and final rules	FSA has announced an integrated approach to stress testing which consists of three main elements: firms' own stress testing; FSA stress testing of specific firms and simultaneous system-wide stress testing. This PS focuses primarily on improvements FSA expects to see in firms' own stress testing and provides additional comments where appropriate to explain its requirements. In particular it comments on the following aspects in some detail: stress testing infrastructure; Pillar 2 stress testing; reverse stress-testing and specific concerns from insurers. FSA will be recommending scenarios to help firms improve capital planning in 2010.	http://www.fsa.gov.uk/pubs/policy/ps09_20.pdf