

FSA POLICY AND FEEDBACK STATEMENTS – 2010

Title	Short Summary	Link
PS10/1: Publication of Complaints Data including Feedback to CP09/21	The PS confirms that firms that receive 500 or more complaints in a six month period will have to publish the following information twice a year: how many complaints they have opened and closed; the percentage closed within eight weeks; and the percentage of complaints upheld. Firms will need to present this information by five product areas: banking, home finance, general insurance and pure protection, life and pensions, and investments. The new rules will come into force on 6 April 2010. FSA is planning to publish a consolidated report, based on the information published by firms, by the end of September 2010.	http://www.fsa.gov.uk/pubs/policy/ps10_01.pdf
PS10/2: Listing Regime Review - Feedback on CP09/24 and CP09/28 with final rules	It is noted that the new rules come into effect from 6 April 2010. They will require overseas Premium Listed issuers to offer pre-emption rights unless they have received shareholder approval to disapply such rights. Overseas Premium Listed companies will not have to offer re-emption rights to shareholders until 6 April 2011. This provides a transitional period of approximately 13 months from when the rules are made.	http://www.fsa.gov.uk/pubs/policy/ps10_02.pdf
PS10/3: Funds of Alternative Investment Funds (FAIFs) including feedback on CP08/4	It is noted that, from 6 March 2010, FSA will allow FSA authorised collective investment schemes who invest in alternative investments funds (including hedge funds) to be marketed to UK retail customers. It is also strengthening how much investors are protected in comparison to its CP08/4 proposals. FSA is to undertake a post-implementation review of our FAIF rules, which will include how they are marketed and distributed. The exact timing of this review will depend upon the number and variety of FAIFs launched.	http://www.fsa.gov.uk/pubs/policy/ps10_03.pdf
PS10/4: Enforcement financial penalties - feedback on CP09/19	This PS creates a new and structured five-step penalty-setting framework, based on the three principles of disgorgement, discipline and deterrence, and consists of the following steps: removing any profits made from the misconduct; setting a figure to reflect the seriousness of the breach; considering any aggravating and mitigating factors; achieving the appropriate deterrent effect; and applying any settlement discount. The PS also sets out a new policy in relation to the circumstances when FSA may reduce a fine because of its financial impact and clarifies the situations in which the FSA may publicise enforcement action in criminal cases bringing FSA's approach in line with other agencies. Fines will be linked more closely to income and be based on: up to 20% of a firm's revenue from the product or business area linked to the breach over the relevant period; up to 40% of an individual's salary and benefits (including bonuses) from their job relating to the breach in non-market abuse cases; and a minimum starting point of £100,000 for individuals in serious market abuse cases.	http://www.fsa.gov.uk/pubs/policy/ps10_04.pdf
FS10/1: Mortgage Market Review: Feedback on	This paper summarises the 178 responses received from a wide range of stakeholders in respect of DP09/3. Among the key themes noted concern scope extension, conduct of business reform and prudential reform. The PS in respect of the CP on arrears and approved persons is likely to be published in June 2010. FSA then	http://www.fsa.gov.uk/pubs/discussion/fs10_01.pdf

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DP09/3	intends to publish a CP on "highest priority" work streams (eg. income verification and affordability assessments, non-deposit taking lenders and product regulation) in Q3 and a CP on distribution and disclosure in Q4. There are also plans to publish an Occasional Paper in Q3, setting out the results of FSA's analysis of the causes of arrears based on the transactional data obtained with the help of the CML. FSA notes that it is not making any formal proposals at this stage and that final implementation dates depend on how quickly the market recovers.	
PS10/5: A specialist sourcebook for building societies: enhanced supervisory guidance on financial and credit risk management	This PS introduces guidance (consulted on in CP 09/17) on how building societies might choose to comply with high level rules (principally in SYSC, GENPRU and BIPRU) in the areas of treasury and credit risk management. It introduces a new specialist sourcebook, the Building Society sourcebook (BSOCS) and deletes IPRU(BSOC)). These changes will come into effect on 1 April 2010 and building societies will have until 30 September to identify any possible mismatches between their risk management and their business model and agree with FSA what actions, if any, are needed to address these. Timescales for the actions will also be agreed	
PS10/6: Distribution of retail investments: Delivering the RDR - feedback to CP09/18 and final rules	PS10/6 contains final rules on describing and disclosing advice services and Adviser Charging (rules requiring adviser firms to set their own fees instead of receiving commissions from providers), together with changes to existing rules on Basic Advice and inducements. It also sets out FSA's position on Simplified Advice, the professional standards that would apply where an adviser is providing such advice, and non-advised services. Rules come into effect at the end of 2012.	http://www.fsa.gov.uk/pubs/policy/ps10_06.pdf
DP10/2: Platforms: delivering the RDR and other issues for discussion	DP10/2 seeks views on options for changes to FSA's regulation of platforms – both to support the RDR objective of reducing bias in the advised-sales process and to address issues FSA has identified through thematic work and wider experience. Responses are required by 26 May 2010.	http://www.fsa.gov.uk/pubs/discussion/dp10_02.pdf
PS10/07: Consolidated Policy Statement on our fee-raising arrangements and regulatory fees and levies 2010/11 including feedback	This paper summaries FSA's policy on fee-raising powers under FSMA; gives an overview of its fees rules; details the final 2010/11 FSA periodic fees; reports on the FOS general levy consulted on in CP10/5 and feeds back on further responses to the strategic review proposals contained in Part 1 of CP09/26 not already reported on through CP10/5. It is noted that one of the principal amendments was to restructure the regime into two segments, premium and standard – "premium" being a listing that meets the more stringent super-equivalent standards and "standard" being a listing that meets EU-minimum standards.	http://www.fsa.gov.uk/pubs/policy/ps10_07.pdf

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on CP10/5 and 'made rules'		
PS10/8: Regulatory reporting for sale and rent back firms - feedback on CP10/4 and final rules	This paper sets out the rules and guidance for regulatory reporting, including timescales. The sale and rent back regime is changing from "interim" to "full" on 30 June 2010 and the paper outlines how and when firms must collect sale and rent back data and submit it to FSA.	http://www.fsa.gov.uk/pubs/policy/ps10_08.pdf
PS10/9: Mortgage Market Review: arrears and approved persons - feedback to CP10/2 and final policy	The first part of this PS sets out final rules and guidance and transitional provisions regarding the changes to MCOB. The second part states that FSA is extending the approved persons regime so that it will apply to those individuals advising on, arranging or entering into home finance business through a new customer function (CF31 (home finance business)). FSA is also extending the compliance oversight function (CF10) to this sector. For the new arrears rules – where FSA will require the recording of telephone calls and extending the overall record-keeping period from 12 months to three years – there will be a transitional provision of six months. FSA will not be providing transitional provisions in any respect of the proposals where it merely clarifies original requirements.	http://www.fsa.gov.uk/pubs/policy/ps10_09.pdf
PS10/10: Delivering the Retail Distribution Review - Corporate pensions – feedback to CP09/31 and final rules	In CP09/31, FSA consulted on applying the principles of "Adviser Charging" to the market for group personal pensions, group stakeholder pensions and group self-invested personal pension. This PS reports on the feedback received to CP09/31 and includes final rules. These new rules and guidance come into effect with other RDR requirements at the end of 2012. FSA says that there are no major changes from those proposed in CP09/31, and it has gone ahead with its main proposal to introduce "consultancy charging". Some minor changes have been made to the rules originally proposed, to mirror, where appropriate, similar minor amendments to final rules published in PS10/6. CP09/31 also covered professionalism and pure protection advice and feedback on these will be published in a separate paper.	http://www.fsa.gov.uk/pubs/policy/ps10_10.pdf
FS10/02: Summary of feedback to the Turner Review Conference Discussion Paper (DP09/4)	This document summarises feedback to DP09/4, which outlined FSA's thinking on systemically important banks and the cumulative impact of capital and liquidity reform. It also sets out where the feedback will be considered in FSA's future work. It is specifically noted that FSA's current thinking on recovery and resolution plans is being informed by the responses received and the results of a pilot exercise undertaken with a small number of banks during Q1 2010. The evidence gathered from the pilot exercise will be used to develop proposals for consultation in 2010/11.	http://www.fsa.gov.uk/pubs/discussion/fs10_02.pdf
PS10/11: A review of the Credit Union sourcebook	FSA notes that the new rules (published in "near final" form - final rules will be published after legislation is made) aim to improve the financial soundness of credit unions.. The rules will be contained in a new Credit Union sourcebook (CREDS), which will replace the existing sourcebook CRED (this will come into effect at	http://www.fsa.gov.uk/pubs/policy/ps10_11.pdf

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(CRED) - feedback on CP09/27 and near final rules	<p>the same time as the legislation). The main changes are:</p> <ul style="list-style-type: none"> • New credit unions must have adequate initial capital, the amount of which will be dependent on the nature, scale and complexity of their business. In most cases, smaller credit unions will need to have initial capital of at least £10,000 and larger credit unions at least £50,000; • Smaller credit unions must have a capital-to-assets ratio of at least 3%; and • All credit unions must hold liquid assets of at least 5% of total relevant liabilities but not below 10% in two consecutive quarters. This is the current requirement for smaller credit unions but a slight increase for larger credit unions. <p>It is noted that the capital-to-assets and liquidity requirements will be phased in, coming into full effect on 30 September 2013. In addition, FSA will reduce the submission period for annual financial returns from seven to six months so that more timely financial information is received from credit unions.</p>	
PS10/12: The assessment and redress of Payment Protection Insurance complaints - feedback on the further consultation in CP10/6 and final Handbook text	<p>The PS confirms FSA's package of measures to protect consumers in the PPI market, including new handbook guidance to ensure complaints are handled properly, and redressed fairly where appropriate; an explanation of when and why firms should analyse their past complaints to identify if there are serious flaws in sales practices that may have affected complainants and even non-complainants; and an open letter setting out common sales failings to help firms identify bad practice. Firms must implement the measures by 1 December 2010, with the time in between to prepare for implementation such as training staff to a higher level. FSA notes that it will be monitoring firms closely to ensure the new standards are adhered to. The PS also states that FSA is considering whether it should seek (following consultation) to extend the time limit consumers have for referring a PPI complaint to the FOS following receipt of a firm's final response letter. This would extend the protection available for consumers who may have had their complaints rejected unfairly (and would potentially be a more general version of the temporary time extension made for some complainants in May 2010). FSA says that it will reflect on this potential measure (and also whether to allow the temporary time extension to lapse on its scheduled date of 27 October 2010) in light of developments over the coming months.</p>	http://www.fsa.gov.uk/pubs/policy/ps10_12.pdf
FS10/3: Enhancing financial reporting disclosures by UK credit institutions: Feedback on DP09/5	<p>This FS summarises feedback to DP09/5, sets out FSA's response to this, and notes the next steps to continue enhancing disclosures by the UK's largest Credit Institutions, including some expectations for disclosures in credit institutions' 2010 annual reports which FSA will discuss with credit institutions in the autumn, as part of the BBA Code's commitment to discuss disclosure matters. FSA says it will continue to assess credit institutions' public reporting, and expects them to enhance the comparability and quality of their disclosures as a result of applying the final BBA Code. It will also keep the need for further policy initiatives to strengthen disclosure under review.</p>	http://www.fsa.gov.uk/pubs/discussion/fs10_03.pdf
PS10/13: Pure protection sales by	<p>P=The PS sets out the final policy for the changes and additions to FSA's rules and guidance, as consulted on in CP10/8. With regard to remuneration transparency, it has been decided to adopt a more flexible approach as</p>	http://www.fsa.gov.uk/pubs/policy/ps10_13.pdf

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retail investment firms: remuneration transparency and the COBS/ICOBS election – Feedback on CP10/8 and final rules	the finalised policy requires firms to make a judgement about when pure protection services are ‘associated’ with investment advice, the instrument in Appendix 1, however, does not differ significantly from the consultative draft. Firms can choose instead to implement commission disclosure on all their sales if this is more appropriate for their business model.	
PS10/14: Capital planning buffers - feedback on CP09/30 and final rules	This paper advises firms, their boards and auditors that the capital planning buffers set under Pillar 2 can be used in adverse circumstances and are not included in a firm’s minimum regulatory capital requirement. It also includes some minor Handbook clarifications to make this clear and summarises the responses received to the questions raised in CP09/30, describes FSA's formal policy and includes the Handbook text that clarifies and formalises this.	http://www.fsa.gov.uk/pubs/policy/ps10_14.pdf
PS10/15: Effective corporate governance - significant influence controlled functions and the Walker Review	The PS sets out a summary of the responses received in response to the CP10/3 proposals, including clarification in respect of parent entity SIFs (CF00); concerns about the potential increased liability of NEDs resulting from the proposal to delete guidance in SYSC; and the establishment by firms of risk committees and appointment of a chief risk officer. FSA also clarifies the number of individuals within a firm that may hold the new systems and control functions (CFs 13-15) and the position for outsourcing of these functions. FSA explains its decision to provide guidance to ring-fence the individual holding the internal audit (CF15) controlled function, to reinforce their independence; and clarifies the application of the new SIF controlled functions for appointed representatives. FSA intends to proceed largely on the basis outlined in the CP, but clarifying and responding to issues raised where this is consistent with the scope of the consultation. The new rules will come into effect from 1 May 2011.	http://www.fsa.gov.uk/pubs/policy/ps10_15.pdf
PS10/16: Client Assets Sourcebook (Enhancements) Instrument 2010 Feedback on CP10/9 and made rules	FSA notes that, whilst it received widespread support to enhance the protections offered by the CASS regime, it received mixed feedback on the proposals relating to: the prime brokerage disclosure annex; daily reporting to prime brokerage clients; restricting client money deposits intra-group; and prohibiting general custodian liens. Although it plans to address a number of the detailed concerns raised by respondents, it will generally implement the proposals consulted on. FSA intends to phase in the proposals over the course of 2011 with transitional periods where necessary (Annex 2 summarises commencement dates). In order to collect the relevant data from firms for the purposes of the Client Money and Assets Return, FSA intends to contact all firms with the relevant permissions in January 2011, asking them to confirm their largest monthly client money balance and value of client assets held during the 2010 calendar year by the end of January 2011.	http://www.fsa.gov.uk/pubs/policy/ps10_16.pdf
PS10/17: Taping of	FSA has decided to remove the current exemption (COBS 11.8.6R (1)) applied to mobile phones and other	http://www.fsa.gov.uk/pubs/policy

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mobile phones - Feedback on CP10/7 and final rules	<p>handheld electronic communication devices from its taping rules.</p> <p>The removal of this exemption will have two parts:</p> <ul style="list-style-type: none"> • It will require the recording and storage – for a period of six months – of all "relevant communications" made with, sent from or received on mobile phones and other handheld electronic communication devices. FSA will only apply this rule to mobile phones and other handheld electronic communication devices that are issued by firms for business purposes. • To support this, FSA will also introduce a new rule requiring firms to take reasonable steps to ensure that such communications do not take place on private communication equipment that firms cannot record mainly for privacy reasons. This includes private mobiles, private handheld mobile electronic communication devices, and private non-mobile electronic communication devices. <p>Firms must comply with the rule changes by 14 November 2011.</p>	y/ps10_17.pdf
PS10/18: Feedback to CP10/12 Competence and ethics and final rules	<p>FSA has published final rules to strengthen training and competence requirements for all individuals carrying out customer facing regulated retail activities. These also clarify FSA expectations regarding standards of behaviour for all approved persons. The proposals introduce a 30 month deadline for individuals to complete all modules of a qualification required for their role. The rule will be introduced from 1 January 2011.</p>	http://www.fsa.gov.uk/pubs/policy/ps10_18.pdf
PS10/19: Strengthening Capital Standards 3 - Feedback and final rules for CP10/17 (chapters 11-13) and CP10/22 (chapter 3)	<p>The rules published in this PS reflect various CEBS guidelines on CRD2-related material that firms need to have regard to, and some miscellaneous CRD3 changes regarding covered bonds and capital floors that may affect some firms. The new CRD2-related rules and guidance will come into force on 31 December 2010, and the CRD3 material on 1 January 2011.</p>	http://www.fsa.gov.uk/pubs/policy/ps10_19.pdf
PS10/20: Revising the Remuneration Code - Feedback on CP10/19 and final rules	<p>Key points include: in line with the CEBS guidelines, the requirement that, for Code Staff, at least 50% of any variable remuneration should be paid in shares or other specified instruments will now be applied equally to both the deferred and undeferred portions of variable remuneration; in line with the CEBS guidelines, FSA has strengthened the guidance stating that the provisions on guaranteed bonuses should be applied on a firm-wide basis (and not just to Code Staff). With regard to proportionality, a high-level structure will mean the creation of four tiers of firms with differing minimum expectations of compliance for each group. Proportionality tiers one and two contain credit institutions and broker dealers that engage in significant proprietary trading/investment banking activities. Proportionality tier three consists of primarily small banks and building societies, and firms that may occasionally take over-night/short-term risk with their balance sheet.</p>	http://www.fsa.gov.uk/pubs/policy/ps10_20.pdf

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	<p>Proportionality tier four contains firms that generate income from agency business without putting their balance sheets at risk. A proportionate approach will also be applied across the range of firms in each tier, and the aim is to avoid sharp differences between applying the Code to firms at the lower end of one tier and the higher end of the next. Proportionality tiers three and four will not be expected to apply rules that the CEBS guidelines recommend can be disappplied. The most significant of those relate to: the requirement to have a UK-based Remuneration Committee; deferral; and the proportion of variable remuneration to be paid in shares. For other rules, FSA will apply an approach that is likely to result in less onerous requirements compared to proportionality tiers one and two, particularly for risk adjustment. FSA will still be able to require higher standards in certain areas, such as governance, from the larger firms in the lower proportionality tiers. The revised Code will come into force on 1 January 2011.</p>	
<p>PS10/21: Implementing CRD requirements on the disclosure of remuneration - feedback on CP10/27 and final rules</p>	<p>FSA notes that it will implement requirements on disclosure of remuneration which are consistent with CRD3. It will require related group entities to report on a consolidated basis at the level of the highest proportionality tier of any entity in the group. FSA is setting a deadline of 31 December 2011 for firms to make their first disclosure under these provisions.</p>	<p>http://www.fsa.gov.uk/pubs/policy/ps10_21.pdf</p>