

Supervision: Law-Now alerts, tools and latest news

Law-Now alerts and other tools

Seminar "[Risk Governance and ARROW](#)" (18/01/12, London, repeated on 24/01/12, London and 26/01/12, Edinburgh)

Seminar "[Handing an FSA Skilled Person investigation](#)" (19/10/11, London – revised repeat of Edinburgh seminar of 13/10/11)

Seminar "[Handing an FSA Skilled Person investigation](#)" (13/10/11, Edinburgh)

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Latest news

CP12/3**: Regulated fees and levies: Rates proposals 2012/13

FSA has announced its proposed Annual Funding Requirement (AFR) for 2012/13, which it describes as likely to be FSA's final AFR before it splits into PRA and FCA. In an accompanying press release, FSA sets out its core programme for the year and notes that, in addition to the funding of the core programme, a significant part of the increase in this year's AFR reflects the costs of implementing the government's reform of the UK regulatory framework. The current £32.5m costs for the restructuring are within the overall estimates set by HMT last year, which equates to 28% of the increase in AFR. The AFR will also cover the costs of modernising the IT infrastructure to ensure it is a suitable platform before the transition to FCA. This will require a £22.4m increase in the AFR, which equates to 29% of the increase in AFR. FSA further notes that its enforcement fines are returned to the industry by way of discounts to their fees in the following year and that anticipated financial penalties for this year are estimated to be £58.7m. Responses to the CP are required by 29 February/2 April 2012 as indicated in the CP. (2/02/12) [FSA announces annual funding requirement for 2012/13](#)
<http://www.fsa.gov.uk/static/pubs/cp/cp12-03.pdf> (NB: over 190 pages long)

FSA: Speech by Clive Adamson: FCA supervision (25 January 2012)

FSA has published the text of the above, given at BBA's conference. He discusses FCA's planned conduct strategy (both retail and wholesale) and supervision model and the transition from FSA to FCA. He notes: "whereas in the FSA we may have relied on the 'caveat emptor' principle and focused our efforts on market abuse and transparency and disclosure, we in the FCA are likely to go beyond relying on caveat emptor where we see potential damage to market integrity and intervene ourselves".. (1/02/12) [FCA supervision](#)

CP11/30**: Proposed Regulatory Prudent Valuation Return

FSA is proposing changes to these quarterly reports, which show the differences between prudent valuation and the fair valuation used in relevant firms' financial statements. These reports are produced in a free format, but FSA is proposing that, in order to aid comparability between firms and over time, a consistent report is required. Depending on the feedback to this consultation, applicable firms will be required to produce regulatory prudent valuation returns starting 31 July 2012 (based on positions as at 30 June 2012). These returns will inform the regulatory Prudent Valuation Adjustment to core tier 1 capital. Responses are required by 14 February 2012. (14/12/11) http://www.fsa.gov.uk/pubs/cp/cp11_30.pdf (NB: over 30 pages long)

PS11/17: Authorised professional firms and legal services reform: Feedback to CP11/13 and final rules

FSA notes that responses were mostly in favour of proposals, but notes that it was made aware that five of the designated professional bodies do not currently apply their rules to the non-mainstream regulated activities of their authorised professional firms, as FSA had assumed, and the impact of this had thus not been considered. It has therefore amended the proposals so the new rules do not immediately apply to the non-mainstream regulated activities of members of the five affected designated professional bodies. Subject to this, FSA plans to proceed with the changes proposed in CP11/13. The new rules will come into force on 9 December 2011. FSA will consult separately in the first half of 2012 on our approach for dealing with the related issue uncovered during our consultation. (9/12/11) http://www.fsa.gov.uk/pubs/policy/ps11_17.pdf

FSA: Modification by consent of BIPRU 12.9.13R

FSA notes that it is shortly to consult on BIPRU rules which will propose that the rule requiring firms to implement their contingency funding plan in the event a standard ILAS BIPRU firm ceases to conform with its Individual Liquidity Guidance, or a simplified ILAS BIPRU firm breaches its simplified buffer requirement (as defined in BIPRU 12.9.14R), is amended to include the option of implementing its contingency funding plan, but not automatically require the implementation of the plan. The modification by consent is available to ILAS BIPRU firms and will remain valid until the earlier of the following dates: 24 October 2012 or the date the relevant BIPRU rule in the Handbook is amended. (2/11/11) [Modification by consent of BIPRU 12.9.13R](#)

OFT: Visits to businesses under the Money Laundering Regulations 2007

This code of practice provides businesses with information on what can be expected when OFT visits their premises in the course of performing its functions under MLR. (2/11/11) http://www.of.gov.uk/shared_of/AML/OFT1386.pdf

CP11/21** : Regulatory fees and levies: - Policy Proposals for 2012/13

FSA expects to publish the final rules and appropriate feedback statements in its annual consolidated PS in May 2012, which will reflect the finalised policy and rules from this consultation and the January 2012 fees and levy rates consultation. Fee payers will be invoiced from June 2012 on the basis of the 2012/13 periodic fees, levies and policy changes. Responses to this CP are required by 6 February 2012. http://www.fsa.gov.uk/pubs/cp/cp11_21.pdf (NB : over 80 pages long)

FSA: Reference - sale of TRS to LSE and termination of TRS services

FSA has published the text of a letter sent to TRS users, advising that LSE has taken over the operation of TRS and FSA has assigned its rights under TRS contract to LSE, who will now handle the TRS customer relationship; and, that as the system will be closed down in 6 months, users' contracts with FSA for TRS transaction reporting will terminate on 23:59 on 24 April 2012. Users are reminded that the termination does not affect firms' regulatory obligations to continue to report SUP17 transactions to FSA (26/10/11) http://www.fsa.gov.uk/pubs/other/trs_customer_completion_notice.pdf

FSA: Proposed guidance on the practice of "payment for order flow"

This guidance consultation sets out FSA's views on PFOF arrangements; describes the practice and its pros and cons; sets out what COBS and SYSC rules are relevant to this practice; and provides guidance on the consistency of the practice with these provisions. It also explains why this issue is separate from that of the fee schedules of trading platforms. FSA notes that it believes these arrangements create a clear conflict of interest between the clients of the firm and the firm itself and is unlikely to be compatible with its inducement rules and risks compromising compliance with best execution rules. Feedback is required by 9 November 2011. (12/10/11) [Proposed guidance on payments for overflow](http://www.fsa.gov.uk/pubs/guidance/gc11_23.pdf)
http://www.fsa.gov.uk/pubs/guidance/gc11_23.pdf

FSA: Individuals approved for the CASS operational oversight controlled function (CF10a)

Details of the individuals approved for CF10a are provided in two lists which are available via the following link, sorted by surname and first name . (They are not currently shown on the FSA Register). (4/10/11)
<http://www.fsa.gov.uk/pages/Doing/Regulated/Approved/persons/cf10a.shtml>

FSA: Financial promotions – prominence

Further to its earlier guidance consultation, FSA has published the finalised guidance on this topic. (29/09/11)
<http://www.fsa.gov.uk/pubs/final/fq-fin-proms-prominence.pdf>

FSA: Non-GABRIEL Paper (NGP) reports

FSA has published a webpage of FAQs in respect of the above topic. (31/08/11) [NGP Reports](#)

FSA: Institution exemption waivers – BIPRU 10.6.32R

This document sets out a non exhaustive list of the type of information that firms should supply as part of their Large Exposure Institutional Waiver applications. (22/08/11)
http://www.fsa.gov.uk/pubs/waivers/large_exposures_institutional_exemptions.pdf

FSA: Client Money and Assets Return (CMAR): FAQ

FSA has published a webpage which sets out some frequently asked questions on this topic. (22/08/11)
<http://www.fsa.gov.uk/Pages/Doing/Regulated>Returns/IRR/gabriel/faqs/cmar/index.shtml>

FSA: Consultation process for general guidance relating to FSA rules

FSA notes that it has recently reviewed its approach to issuing general guidance. Following feedback, it has increased the standard consultation period for general guidance relating to rules from two weeks to one month. It has also updates its criteria on when cost benefit analysis for general guidance is required (second link below). (8/08/11) [New consultation process](#) http://www.fsa.gov.uk/pubs/guidance/guidance_cba.doc

FSA: Agreement to sell TRS to LSE

FSA has announced that it has entered into a conditional agreement to sell its Approved Reporting Mechanism known as the Transaction Reporting System (TRS) to the London Stock Exchange (LSE) for £15m. FSA notes that it believes that the ARM market is now sufficiently developed to enable firms to meet their reporting obligations to FSA and that maintaining an ARM no longer formed part of its core role as a regulator. LSE plans to migrate TRS customers to its UnaVista platform on completion of the transaction. FSA has also published the text of a letter it has sent to firms explaining how this is expected to affect reporting. (2/08/11) [FSA enters into an agreement to sell TRS to the London Stock Exchange](#)
http://www.fsa.gov.uk/pubs/other/trs_user_letter.pdf

FSA: PS09/19: Review of the prudential rules for Personal Investment Firms (PIFs) Feedback to CP08/20 and CP09/20 (Chapter 11) – addendum

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. (2/08/11) [PS09/19: Review of the prudential rules for Personal Investment Firms \(PIFs\) Feedback to P08/20 and CP09/20 \(Chapter 11\)](#)

FSA: Financial Promotions Industry Update 8

This update discusses FSA's expectations of firms when they advertise EIS /VCT investments, including key considerations for firms when producing financial promotions for these products; and financial promotions statistics for January to June 2011. (14/07/11) http://www.fsa.gov.uk/pages/Doing/Regulated/Promo/pdf/fp_update_jul11.pdf

FSA: Proposed guidance on financial promotions – prominence

FSA has published guidance on financial promotions, which attempts to clarify inconsistencies in the approach to prominence in financial promotions. It includes examples of good practice. Responses are required by 5 August 2011. (8/07/11) http://www.fsa.gov.uk/pages/Library/Policy/guidance_consultations/2011/11_15.shtml
http://www.fsa.gov.uk/pubs/guidance/gc11_15.pdf

CP11/13**: Authorised professional firms and legal services reform

FSA reports that the Solicitors Regulation Authority (SRA), has applied to become a licensing authority under the Legal Services Act and has recently decided that its jurisdiction under the Legal Services Act does not extend to the financial services activities of an alternative business structure, where that firm is FSA authorised. It will thus not be regulating the financial services activities of an FSA-authorised alternative business structure. FSA is concerned that, because of the way the current exemptions and modifications work, the impact is that from October 2011, firms carrying out mainstream regulated activities would not be subject to any rules in the areas of compensation and client money; and firms carrying out non-mainstream regulated activities would be subject to a modified FSA regime in a range of areas⁴, despite SRA no longer regulating their financial services activities. SRA has confirmed that it plans to consult in the near future on excluding from its jurisdiction the financial services activities of traditional law firms (authorised professional firms which are not alternative business structures). FSA notes that, if implemented, it would mean that clients of all authorised professional firms under SRA would lack regulatory protection in the areas set out above. This CP consults on changes to the Handbook designed to address both the gap in regulatory protection that will arise from October, and the longer term issue arising from the possibility that designated professional bodies will adopt a similar approach for traditional law firms. The paper also invites views on the potential costs and benefits of the proposed change. The proposal is to close the gap in consumer protection by removing the exemptions and modifications in the Handbook for professional firms (including alternative business structures) which will be authorised professional firms, but only where the designated professional body does not apply rules covering the firm's FSA-regulated activity. For mainstream regulated activities, FSA proposes to add text in CASS, SUP and GLOSS which brings firms carrying out these activities back within the scope of FSA's Rules. For non-mainstream firms, FSA proposes to amend PROF so that a professional firm regulated by a designated professional body which has switched off its rules cannot fall into the non-mainstream category. Responses are required by 12 August 2011. (1/07/11)
http://www.fsa.gov.uk/pubs/cp/cp11_13.pdf (NB: over 40 pages long)

Archived material on the sector is available via the following links: [January-June 2009](#), [July-December 2009](#), [January-December 2010](#) and [January-July 2011](#).

Updated 2/02/12

Regzone materials are intended for clients and professional contacts of CMS Cameron McKenna LLP. They are intended to simplify and summarise the issues covered and must not be relied upon as giving definitive advice.

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