

The following Compliance articles are for the week ending 27 February 2009.

#### ***FSA -Publishes Code of Practice on Remuneration Policies***

On 26 February, FSA published a draft code of practice on remuneration policies relevant to all FSA regulated firms. The aim of the code is to ensure that firms have remuneration policies which are consistent with sound risk management, and which do not expose them to excessive risk. It is not concerned with setting levels of remuneration, which are a matter for the boards of companies and their shareholders.

FSA chief executive Hector Sants said: "We have already outlined the work we have been doing on remuneration during the last 12 months. The code of practice we have published is the next stage in that work and clearly lays out the framework we expect firms to adopt."

The draft Code was published in conjunction with the Government's announcement about its Asset Protection Scheme. HM Treasury has indicated that the Code will form part of the eligibility criteria for participating in the Scheme. Therefore, the FSA has released early details of the draft Code, to provide clarity on what eligibility may involve.

The draft Code will be the subject of a formal consultation process in March, and only when that consultation has finished will the Code of practice be added to the handbook. For Banks not participating in the Scheme, this Code will only become effective following this process.

Key points include:

- The principles in the Code are relevant to all FSA-regulated firms
- The principles embodied in the Code are not concerned with levels or quantum of remuneration, which are a matter for firms' boards
- The aim of the Code is to ensure that firms have remuneration policies which are consistent with sound risk management, and which do not expose them to excessive risk
- The principles in the Code will be used by the FSA to assess the quality of a firms' remuneration policies and linkage, if any, between such policies and excessive risk-taking by staff
- FSA may also ask the committee with overall responsibility for a firm's remuneration policies to provide FSA with evidence of how well its policies measure against these principles, together with plans for improvement where there is a significant shortfall. FSA will also ask firms to use the principles in assessing their exposure to risks arising from their remuneration policies as part of the ICAAP process

**Source: FSA Website**

#### **FSA - publishes statement on implications of the Government Asset Protection Scheme**

On 26 February the Government announced its Asset Protection Scheme which forms a significant part of the Government's measures to deal with the financial crisis. The subsequent two announcements by FSA set out their assessment of how the Scheme will affect the capital position of any participating firms. The Scheme is designed to provide protection against credit losses occurring on specified pools of assets above a certain threshold. It is intended that the Scheme will target risky and uncertain assets, including those that are most likely to be adversely affected by economic conditions. The Treasury will reimburse the participating firm, for a portion (usually 90%) of all losses that exceed that amount.

The Scheme will affect the capital position of any participating group. Specifically, the first loss portion that is retained by the participating group will be met with a deduction from capital, but the risk weighted assets of the protected portfolio will be significantly reduced.

**Source: FSA Website**

#### ***FSA – Consults Further on Compensation Charged to With-Profits Funds***

On 23 February, FSA published a further consultation paper relating to compensation and redress payments arising from operational failures including mis-selling that life insurance companies may currently charge to their with-profits funds. These proposals relate specifically to proprietary firms rather than mutuals.

Under current rules, a firm may pay compensation and redress from assets attributable to shareholders or from the inherited estate of its with-profits fund (if any). In CP08/11, FSA proposed that the shareholders alone should meet the cost of future compensation and redress payments as the current rules may not lead to the fair treatment of policyholders. The FSA is now proposing that the amended rules should only apply to compensation and redress payments resulting from events that take place after the rule comes into force. This will provisionally be the end of July. The consultation will close on 22 May 2009. The FSA will then publish a policy statement and will finalise draft rules.

**Source: FSA Website**

#### ***FSA – Single Premium PPI Banned for Unsecured Personal Loans***

As reported in our Stop Press in last week's edition, on 24 February FSA demanded that firms still selling or underwriting single premium PPI with unsecured personal loans cease doing so as soon as possible - and in any event by 29 May 2009.

With letters to the CEO of each firm selling or underwriting single premium PPI policies, Press Release and a powerful speech by Dan Waters at the BBA seminar, FSA have effectively leap-frogged over the deadline set by the Competition Commission (CC) last month.

The CC report prohibited the sale of these policies by 1 October 2010. FSA are not prepared to wait that long, and have taken matters into their own hands by insisting on the practice ceasing more than a year earlier because of their concerns over how this product has been and continues to be sold, and whether consumers have been treated fairly during the sales process.

Jon Pain said "In view of our ongoing concerns across the single premium market over the standard of sales, we believe this request is justified to bring an orderly withdrawal of single premium PPI from the market."

Dan Waters pointed out "This is a significant market. At the present time, Data Monitor estimates that there are around 20 million PPI policies in force, with 6.5 to 7.5 million new policies sold annually. During 2007 alone, consumers paid around £4 billion in premiums. After 20 enforcement cases, including the imposition of a record £7 million fine, as well as issuing a number of clear guidance notes and warnings, it has been an incredible disappointment to continue to see problems with sales standards."

Turning to complaints handling for this product, Dan referred to imminent announcements by FOS. He said "In addition to the fair handling of complaints, it is fundamental for firms to give consideration to whether flaws in their processes have led to poor consumer outcomes and to take steps to tackle the root cause of the problems. I am sure that the FOS will discuss in detail its comments on complaint handling processes.

I would ask that you listen carefully". With that warning, his speech is a must-read for anyone involved in this product.

Recipients of the CEO letter are expected to send a response to Jon Pain, the recently appointed MD of the Retail Markets Division of FSA, by end March 2009.

**Source: CEO Letter Press Release Dan Waters' speech**

#### ***FSA – Publishes Market Watch on Transaction Reporting Issues***

On 25 February, FSA published their popular "Market Watch newsletter giving up-to-the minute information and comment from their Markets Division. This edition is focussed on the requirements of CESR and new timescales, and introduces a new Transaction Reporting Forum to which interested parties are invited. Specific topics covered include:

- Alternative instrument identifier (All) project. The key objectives of the All Project were to ensure FSA met the obligations set out under MiFID for reporting all All derivative transactions in an efficient and secure manner. Additionally, FSA wished to ensure that all reference data was obtained in order to understand, validate, and route transaction reports to the relevant competent authority according to the criteria mandated by MiFID. The Approved Reporting Mechanisms (ARMs) who agreed to submit All transaction reports to us has translated the FSA All technical specification into their technical specification and issued it to their member firms. CESR has agreed to a revised timeline and FSA have set up a number of support and user groups to assist firms
- Populating the instrument identification code and instrument identification code type fields: clarification is provided and firms have been asked to review their transaction reports to ensure they are reporting in a timely manner
- Transaction reporting – new validation for ISO 10383 market identifier codes: clarification and new deadlines for compliance
- Transaction reporting forum: announcement of an FSA initiative to assist firms on transaction-reporting discussions and issues, and to facilitate FSA providing feedback on CESR
- Completing the quantity field for spread bet transactions: clarification provided
- Quality and completeness of transaction reporting: a reminder that this was required to assist in the identification and investigation of possible market abuse
- Unique client identifiers: When providing the identity of a client each firm is executing a transaction for, they must use the FSA Reference Number (FRN) or Bank Identifier Code (BIC). If neither of these is available, the firm must allocate a unique internal code and use it consistently across all instrument types and platforms for that counterparty. Those firms new to the UK transaction reporting regime that asked for an extension to October 2008 for full implementation of this should now be fully compliant and transaction reporting using a single identifier for each client.

**Source: FSA Website**

#### ***ABI Publishes Approval of De Larosière Report***

On 25 February, the ABI supported the De Larosière report key recommendations, saying they will help rebuild trust in European financial services regulators. The ABI particularly supports De Larosière's calls for the early adoption of the Solvency II directive, the proposed strengthening of supervisory powers at European level, and reform to the governance of the IASB.

Stephen Haddrill, the ABI's Director General, said: "The De Larosière proposals challenge regulators, and those they regulate, to think differently. Whether in London, Brussels or New York we must rise to the challenge, not keep our heads in the sand. Narrow views of national interest must give way to effective international collaboration. De Larosière's group is therefore right to propose strengthening the coordination of supervision across Europe's boundaries.

"De Larosière's proposals also rightly recognise the dangers of more regulation, and instead focus on the need for better quality supervision and oversight."

**Source: ABI Website**

## **FSA Events - The Turner Review Conference - Friday 27 March 2009**

### **Overview**

These are difficult times for the world's financial markets and those who regulate them. Following the banking crisis in October, the Chancellor of the Exchequer asked Lord Turner, in his capacity as the Chairman of the Financial Services Authority (FSA), to review and make recommendations for reforming UK and international approaches to the way banks are regulated.

The Review will be published on 18 March and a copy sent to all conference attendees. The Review, and supporting FSA Discussion Paper which will be published on the same day, will take an in-depth look at how the international community needs to work together to respond to the causes of the global banking crisis through enhancements to regulatory standards, architecture and international practices for cooperation and coordination. This major FSA conference will discuss the Review and consider the way forward.

### **Who should attend?**

This conference will appeal to all those interested in the reform of UK and international bank regulation including: CEOs and Board Members of banks and other financial institutions; senior management and individuals who have responsibility for or contribute to meeting our regulatory requirements; legal professionals; trade associations; academics; international regulators from major financial centres; and parliamentarians and officials with an interest in financial regulation.

### **Location**

The QEII Conference Centre, Broad Sanctuary, Westminster, London SW1P 3EE

### **Format**

The conference will run for half a day with registration from 9.00am. The conference will start at 9.30am and finish at approximately 1.00pm followed by a lunch for attendees. Confirmed speakers include: the Chancellor of the Exchequer, Lord Turner (Chairman, FSA), Hector Sants (CEO, FSA), Prof. Mario Draghi (Governor of the Bank of Italy and Chair of the Financial Stability Forum), Peter Sands (Group CEO, Standard Chartered), Paul Tucker (Executive Director, Bank of England), Avi Persaud (economist) and Tharman Shanmugaratnam (Singapore Minister for Finance).

To book your place please complete the [http://www.fsa.gov.uk/pages/Doing/Events/pdf/turner\\_review.pdf](http://www.fsa.gov.uk/pages/Doing/Events/pdf/turner_review.pdf)

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