

The following Compliance articles are for the week ending 24 April 2009.

## COMMENTARY

### FSA - CHAIRMAN EXPANDS ON HIS THEME

Lord Turner, FSA Chairman has gone public on the need to set the potential macroeconomic costs of tighter regulation for banks against the benefits of lower risk to financial stability. In a speech at the Global Financial Forum in New York, he expanded on three themes from his recent review of banking regulation.

Lord Turner said: "A major objective must be to return banking to its basic functions – providing vital services of real value to the real economy. And a major lesson of the crisis is that that we cannot rely on market discipline alone or even primarily to achieve this or to ensure that financial instability risks are contained, but must use robust regulation. The required reform is multifaceted. But three elements of reform are particularly important: a macro-prudential approach, major changes to capital adequacy regulation and major changes in the regulation of liquidity."

He told the conference that in designing a new global framework for the regulation of banking there was significant agreement, but also areas with no clear answers yet, including:

- How to balance any possible costs of higher capital and liquidity requirements against greater systemic stability
- Whether banks that are "too big to fail" may be expected to hold extra capital
- The possibility of cross-border banks facing more onerous local liquidity and capital arrangements

In conclusion, Lord Turner said: "We need to design a banking system and credit intermediation system focused on its core and essential functions in the real economy and better able to be a shock absorber rather than itself a source of instability."

**Source: FSA Website**

### FSA - NEW ERA OF BANKING REGULATION

On 24 April, FSA announced that they will take over all retail banking conduct regulation for deposit taking and payment services in November 2009. Currently, the Banking Code Standards Board (BCSB) monitors and enforces voluntary Banking Codes which govern banks' day to day relationships with their customers.

From November, these arrangements will be replaced by new FSA rules which all banks, building societies and credit unions must follow.

Notable changes for consumers will include the requirement to provide a prompt and efficient service to help customers switch accounts. This would apply more widely than the commitments in the banking codes, for example to cash ISAs, where the FSA has seen delays in the past. So when it comes to switching, customers will be able to have their transfer completed promptly – no matter what type of account.

Another key area is the provision of information. Currently, some informative material about a bank's products and services must be communicated to people once they become customers. The new FSA rules will require this information to be available at the point when people really need it – when they are making the decision whether or not to become a customer.

The FSA rules will help consumers to make informed and timely decisions, enabling them to both choose the best account for them, and know how to use their account most effectively. They will also ensure that the quality of customer service is maintained long after becoming a new customer.

A new rule will mean service must remain prompt, efficient and fair for the duration of the relationship. Firms will also need to comply with an explicit requirement to treat customers fairly, including when dealing with customers in financial difficulty and when processing payments.

The greater enforcement powers of the FSA, when compared with the BCSB, will also have a deterrent effect that was missing in the Codes. The FSA can, and will where appropriate, fine firms if they fail to comply with the new rules to the detriment of their customers.

Commenting on the changes, Jon Pain, FSA retail managing director said: "These are important new standards that firms will need to meet. They will affect consumers' everyday interaction with banks. Before the new rules come into force, we will publish comprehensive information for consumers detailing their rights and outlining what they can expect from their banking provider."

The new banking rules will sit alongside those of the Payment Services Regulations. This European legislation is designed to harmonize the standards of customer service for all payment transactions throughout the European Union.

It contains a number of important consumer protection measures including confirming a customer's right to a refund for unauthorized transactions and requiring a minimum speed for transfers.

Areas of retail banking which fall outside the FSA's remit, such as overdrafts and credit card lending, will continue to be regulated under the Consumer Credit Act.

**Source: FSA Website**

### **FSA SIMPLIFIES THE FINANCIAL SERVICES COMPENSATION SCHEME (FSCS)**

The FSA is to go ahead with proposed changes to the compensation limits for insurance, investment and home finance advice business in the event of a firm failing, designed to achieve greater simplicity and consistency in the FSCS.

***The changes, which come into effect from 1 January 2010***, mean the compensation limit for investments, home finance advice and deposits will be the same at £50,000 and all claims for non-compulsory insurance will be paid at 90%, with no upper limit.

On 24 April, Jon Pain, managing director of retail markets at the FSA, said: "The changes will help consumers understand and have confidence in the protection provided by the FSCS. In particular it removes the current potentially confusing provisions under which some parts of a claim can be paid out at 100% and other parts at 90%."

Main provisions are:

- Investments: Provision and mediation of investments: protection for 100% of £50,000 (currently 100% of the first £30,000 and 90% of the next £20,000)
- Home finance mediation: Advising on or arranging house purchase finance: protection for 100% of £50,000 (currently 100% of the first £30,000 and 90% of the next £20,000)

- Insurance: Non-compulsory insurance provision (both general and life insurance): protection for 90% of the claim, with no upper limits (currently 100% of the first £2,000 and 90% of the remainder, with no upper limit)
- Mediation of non-compulsory general insurance and pure protection contracts (term, critical illness and income protection insurance): protection for 90% of the claim, with no upper limit (currently 100% of the first £2,000 and 90% of the remainder, with no upper limit)
- There will be no change to compulsory insurance, such as motor third party and employers' liability insurance, including mediation. This will remain at 100% protection with no upper limit

**Source: FSA Website**

### **FSA - HANDBOOK NOTICE IMPACTS ON ENFORCEMENT**

On 23 April 2009, the FSA Board made five instruments which:

1. Make minor administrative corrections to the Handbook, none of which represents any change in FSA policy (FSA 2009/22)
2. Implement the provisions for firms paying application fees to the FSA in respect of the new Payment Services regime (FSA 2009/23)
3. Introduce a new banking conduct of business sourcebook (FSA 2009/24)
4. Introduce new compensation limits for investments, home finance mediation and insurance (FSA 2009/25)
5. Make amendments to the Enforcement Guide (EG) to provide guidance to firms which choose to provide the FSA with a copy of an investigation report commissioned by the firm in anticipation of potential FSA enforcement action (FSA 2009/26)

FSA has made changes to EG in order to provide guidance for firms who choose to provide the FSA with a copy of an investigation report commissioned by the firm in anticipation of potential FSA enforcement action. The instrument stresses the benefits for both firms and the FSA of providing them with a copy of a firm-commissioned report.

These reports may obviate the need for a full enforcement investigation and save FSA time and resource in gathering the necessary information on which to base regulatory decisions. ***These changes come into force on 6 May 2009.***

**Source: FSA Website**

### **FSA - PUBLISHES HANDBOOK DEVELOPMENT NOTICE 110**

This newsletter contains:

- Information about recent Handbook-related and other developments
- Information about recently issued Handbook-related and other publications
- Updated timetable for forthcoming publications
- Information about Consumer publications
- Links to FSA's Events web page which provides information about forthcoming conferences and training events

**Source: FSA Website**

**ABI – COMMENTS ON PENSION TAX RELIEF**

On 22 April, the ABI commented on the Government's decision to restrict tax relief on pension contributions for people earning over £150,000 a year.

Maggie Craig, the ABI's Director of Life and Savings, said: "This is a disappointing day for pension saving. Although this move will not directly affect the vast majority of people saving for retirement, we are concerned that it sends a worrying message to pension savers that the Government is now breaking its contract on tax relief. Tax relief is there for a reason – it compensates responsible people who agree to defer some income by locking pension savings away until they retire. That principle was enshrined by Lord Turner in his Government-backed report on pensions in 2006. To maintain consumer confidence in the pensions system, the Government must give a categorical assurance that the historic principle of pension savers receiving tax relief on their contributions will not be undermined any further. This move is likely to be expensive to implement and will reintroduce complexity and change to the pension system, just three years after the Government's 'A-Day' reforms. It is vital there is detailed and effective consultation on the implementation of these changes. Far too few people are saving for their retirement, and Britain faces a 2050 demographic time bomb when there will be twice as many pensioners for the working population to support – the Government's decision will do nothing to encourage people to save."

**Source: ABI Website**

**ABI – COMMENTS ON BUDGET AS A "MIXED BAG"**

On 22 April, the ABI Director General, Stephen Haddrill, commented as follows: "The Budget is a mixed bag for the UK insurance industry. We recognise the Government faces exceptional challenges and has few easy answers. We are pleased the Government has accepted our arguments on foreign profits and the need to raise ISA limits substantially. But this is a disappointing day for pension saving. The decision to curtail tax relief, while only affecting a minority of pension savers, sends an alarming message that pension promises can be easily broken. To maintain consumer confidence in the pensions system, the Government must give a categorical assurance that the historic principle of pension savers receiving tax relief on their contributions will not be undermined any further".

**Source: ABI Website**

**Council of Mortgage Lenders – WELCOMES NEW FOREBEARANCE SCHEME**

The Council of Mortgage Lenders members are banks, building societies and other lenders who together undertake around 98% of all residential mortgage lending in the UK. There are 11.7 million mortgages in the UK, with loans worth over £1.2 trillion.

On 21 April, they welcomed the implementation of a new government measure designed to reinforce lenders' policies of forbearance for borrowers facing temporary and resolvable mortgage repayment problems, to minimize repossessions. Lenders' actions, supported by debt advice, help develop affordable repayment plans for borrowers committed to getting through short term financial difficulties.

Repossession is a last resort. Lenders already show significant forbearance to borrowers facing temporary difficulties, to enable them to keep their homes where this is possible. This core principle is already underpinned by regulatory rules and industry guidance. Today's scheme is a helpful additional tool although they do not expect that the guarantee will be triggered in many cases, as the scheme is aimed at borrowers who expect to be able to resolve their difficulties and resume full mortgage payments within a year or two.

Some lenders have confirmed their participation in the home-owner mortgage support scheme (HMS) under which the government will provide a guarantee in some circumstances against part of the risk of future loss that lenders face by allowing borrowers to under-pay on their mortgages for a temporary period.

Other lenders have concluded that, while they support the principle of reasonable forbearance, they would prefer to help their borrowers outside the scheme and without calling on government financial support.

They see HMS as simply one means to an end. What matters is how lenders are working with their borrowers through periods of difficulty where they believe these can be resolved, not whether they are using HMS in itself.

**Source: CML Website**

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