

The following Compliance articles are for the week ending 18 September 2009.

## COMMENTARY

### FSA AND SEC MEET TO DISCUSS GLOBAL STANDARDS

Hector Sants, Chief Executive of the FSA and Mary Schapiro, Chairman of the US Securities and Exchange Commission (SEC), have announced plans to explore approaches to reporting and other regulatory requirements for key market participants such as hedge funds and their advisers.

In particular, they agreed to identify a common, coherent set of data to collect from hedge fund advisers/managers to help the SEC and FSA identify risks to their regulatory objectives and mandates.

This announcement came out of a meeting of the FSA-SEC Strategic Dialogue, through which FSA and SEC leaders meet periodically to discuss areas of mutual interest. Other issues discussed at the meeting included:

- Over-the-counter derivatives markets and central clearing
- Accounting issues
- Regulatory reform
- Credit rating agency oversight
- Short selling
- Corporate governance and compensation practices

The FSA and SEC have worked together closely to address the recent financial crisis, both on a bilateral basis as well as in international organisations, such as the International Organisation of Securities Commissions.

Recently, the FSA and SEC have worked to promote the use of central counterparties (CCPs) for the clearance of credit default swaps and are actively cooperating in the oversight of CCPs.

This was the fourth meeting of the SEC-FSA Strategic Dialogue, which began in June 2006. The purpose of the Dialogue is to engage at senior levels on current matters impacting the U.S. and UK capital markets and areas of future collaboration.

**Source: FSA Website**

### FSA - WARNS PENNY SHARE CUSTOMERS

The FSA is taking action against penny share dealers after finding that older people are being targeted with high pressure sales tactics. So far this year, the FSA has ordered eleven firms out of the penny share market until they overhaul their business model and prove they no longer pose a risk to consumers. Six of those firms have now ceased trading completely.

Lesley Titcomb, Director, Small Firms and Contact division said: "It is totally unacceptable to have consumers pressurised into buying shares. It is all the more disturbing when the risks of those shares have not been set out clearly.

Our intensive supervision is setting high standards for firms to meet, and the warning to any such firm which has yet to receive a visit from us is that they should get their house in order.

Quite simply, if firms do not treat their customers fairly, they will not be operating in the market."

The work found that certain stockbrokers targeted people who already own shares, usually people over the age of 50 years, some of whom may have acquired a few shares through privatisations.

In some cases the brokers were paid commission to sell a particular share which was then aggressively marketed to consumers regardless of whether or not it was suitable for them.

The work will continue into the autumn and the sales practices of Contracts for Difference (CFDs) will also be part of the focus. CFDs are investments which allow people to speculate on the movement of share prices.

They are extremely complex, and investors could lose more than their original stake. FSA will not hesitate to refer firms and their senior management to enforcement if unacceptable practices are found.

**Source: FSA Website**

#### **TRANSACTION REPORTING USER PACK ("TRUP")**

The FSA has produced this pack in conjunction with various firms and trade bodies. It aims to bring together the detailed instructions and guidelines published previously, providing firms with a consolidated point of reference to help them understand and comply with their transaction reporting obligations. Firms should therefore use the information contained in this guide together with any subsequent guidance issued on the FSA website or through MarketWatch.

The TRUP helps firms understand the transaction reporting obligations that come from the Directive 2004/39/EC on Markets in Financial Instruments (MiFID) and is implemented through SUP 17. It aims to give detailed instructions and guidelines to help firms understand their transaction reporting obligations after MiFID implementation in November 2007.

The FSA expect compliance departments and compliance officers to ensure that the TRUP is fully understood and that any necessary amendments to transaction reporting processes are initiated. It should be distributed to all relevant staff in the compliance, systems and operational areas, to the extent that they are involved in transaction reporting.

**Source: FSA Website**

#### **SALLY DEWAR ADDRESSES FSA ASSET MANAGEMENT SECTOR**

Sally Dewar, managing director of Wholesale Markets at the FSA, has set out how the EU Alternative Investment Fund Management Directive could be made more workable for the industry and why a risk-based and global approach to regulating fund management is needed.

Speaking at the FSA's Asset Management Sector conference, Sally Dewar said that there is much in the Directive that the FSA can support and stated that: "Most of us can see value to the European and global capital markets, and the wider economy, in sensible and proportionate harmonisation of regulatory standards in the areas under discussion".

She added, however, that there remain four key areas that need to be addressed to make the Directive more effective for the funds it covers:

- Correct identification of the weaknesses in the present regulatory arrangements and addressing them in a proportionate way
- Differentiation between types of alternative investment fund management

- Adoption of a risk-based approach – the scope and thresholds of the Directive need to strike the correct balance between imposing additional costs and enabling regulators to identify and mitigate systemic risks
- The need to take a global approach that recognises the global nature of the sector and does not impose unjustifiable geographical restrictions on firms' business models that would significantly restrict investor choice

**Source: FSA Website**

### **GOOD PERFORMANCE WITH OPTIONS SYSTEM**

The ABI has published the latest performance data for the Options pension transfer initiative. Options – built to speed up the exchange of information and funds between pension and annuity providers – delivered an average transfer time of 11 calendar days in Q2 2009. This compares to eight calendar days in Q1 2009 and a 31 calendar day industry average in 2008.

Options, developed and operated by leading e-commerce provider Origo, has also recently been extended to cover pension-to-pension transfers, in addition to the existing Open Market Option (OMO) and Immediate Vesting Personal Pensions (IVPP) service.

Five providers are currently using Options for pension-to-pension transfers, with more expected to join in due course. 14 companies are using Options for OMO and IVPP transfers.

Maggie Craig, the ABI's Director of Life and Savings, said: "Options is a key part of the ABI's Consumer Strategy, designed to improve customer experiences of the insurance industry. Although there has been a slight increase in the average transfer time from Q1 2009, this should not detract from the efforts of pension companies to improve performance on OMO transfers.

It is still early days for Options and as more providers go online, it was always expected that average transfer times would fluctuate. The good news is that in just one year, average transfer times have fallen by nearly three weeks.

Options has shown that by working together, companies can improve the customer experience of securing a retirement income from their pension savings.

We urge those companies who have not yet signed up to the initiative, or who have not yet gone live, to do so as soon as possible, so that the benefits of this important initiative are felt by all pension customers."

**Source: ABI Website**

### **FOS COMPLAINTS DATA COULD MISLEAD CUSTOMERS**

Responding to publication by FOS of firm-specific complaints data, Maggie Craig, the ABI's Director of Consumer Strategy, said: "The insurance industry acknowledges that improvements are needed in the way that it handles customer complaints, and is taking steps to address the issue.

It's absolutely right that consumers should know about the performance of firms who look after their insurance and investment needs, and complaints handling is an important part of that. But any such data must be presented in a way that helps consumers make informed choices.

Unfortunately, the way that the FOS has chosen to present the data doesn't achieve this aim, and may in fact mislead consumers about the performance of individual firms. For example, consumers can't compare performance by sector or by product.

In order to try to provide some context to the debate about complaints handling, the ABI has brought together data showing the number of complaints in the context of the overall quantity of different types of insurance policy, such as motor, home and life insurance, and pensions and investments.

This is the type of information which will help consumers to make informed choices about where to buy their financial products, and thus inspire companies themselves to improve their performance. We hope that in the future, both the FOS and the FSA will take this on board and adapt the way that they present complaints data.”

**Source: ABI Website**

**DROP IN TRADE CREDIT INSURANCE CLAIMS**

Trade credit insurance claims have fallen for the first time in four quarters but uncertainty in the economy continues. Latest ABI figures show that trade credit insurance claims have fallen for the first time in four quarters.

In Quarter 2, 2009:

- The total number of claims was 5,661, a decrease of 1% from 5,702 in Q2 2008.
- The total value of claims was £81 million, an increase of 17% from £69 million in Q2 2008
- Meanwhile, provisional figures from the Insolvency Service show that the total number of company liquidations was 5,059 in Q2 2009, an increase of 37% from 3,689 in Q2 2008

Nick Starling, the ABI’s Director of General Insurance and Health, said: “Trade credit insurance continues to do a vital job in helping companies through the recession and remains a lifeline for many companies.

Trade credit insurance helps clients to avoid risks when times are tough, and pays claims when those risks cannot be avoided. It often makes the difference between a good business staying afloat or going under.

Trade credit insurance claims decreasing, while company insolvencies rise shows the crucial part that insurers play in helping to steer their customers away from risk.

But the economy is not out of the woods yet. Many companies may still be vulnerable, making trade credit insurance more valuable than ever. Insolvencies are just as likely to happen while the economy is recovering as they are when it’s entering a downturn.”

**Source: ABI Website**

**Dates and Deadlines**

30 September	VAT Date VAT Return Date CT61 date Small business rate relief date Company accounts filing deadline Corporation tax return date Corporation tax returns Intrastat
01 October	Corporation tax

05 October

Personal tax date

Source: [www.horsfield-smith.co.uk](http://www.horsfield-smith.co.uk)

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