

The following Compliance articles are for the week ending 23 September 2009.

## COMMENTARY

### FSA - PUBLISHES FEEDBACK TO THE TURNER REVIEW

The Financial Services Authority (FSA) yesterday published a response to the feedback it received to the Turner Review and associated Discussion Paper (DP) issued in March 2009.

The feedback statement sets out the FSA's analysis of the responses received and reports on the progress made since March, in implementing change and in achieving international agreement.

Respondents generally agreed with the analysis of the Turner Review and the broad approach it proposed. The majority offered clear support for the analysis of causes, the main recommendations and the FSA's supervisory approach as detailed in the Turner Review and DP. The key issues raised by respondents were as follows:

- An international approach was needed when looking at policy options
- Concerns were raised that any measures implemented by the UK alone could damage London's competitiveness
- Large firms were against increased requirements for systemically important firms
- The need for an impact assessment of the 'whole package' of reform to be carried out

The strongest concern was the need for international consistency in formulation and implementation of the regulatory policy response to the crisis.

The FSA recognises that the policy solutions that emerge to tackle the cause of the crisis will have to be both radical and internationally agreed in order to be effective.

The Review and DP were intended to stimulate debate on the causes of the crisis and made recommendations on the global regulatory changes needed.

To this end, the FSA has been actively engaged with international partners and counter-parts, firms, academics and other tripartite members to make progress on these issues.

Alongside the process of formal response to the proposals made in the Turner Review and DP, wider debate has continued on the overall approach to financial regulation.

In this context, the FSA's own thinking has continued to develop on certain proposals which now require a more detailed analysis. Therefore, in addition to this feedback statement, the FSA plans to issue a further discussion paper in October which will focus on key areas including:

- Systemically important firms – Respondents questioned how regulators should deal with systemically important firms and the G20 has called for higher prudential standards for such firms. The new DP will address the issue of how to identify 'systemically important firms', the policy tools available and how they might be applied. This will include discussion of the possible design of living wills and their implementation at both national and global level.

- Cumulative impact of capital and liquidity reforms – There is a need for a comprehensive analysis of the combined impact of the different elements of regulatory reform, such as stronger overall capital and liquidity requirements, changes to trading book capital, countercyclical capital and alternative possible approaches to systemically important firms.

In total these changes will have a significant impact on leverage and maturity transformation in the banking system: trade-offs may have to be made between costs of intermediation and financial stability. The discussion paper will consider methodologies for making these trade-offs.

The new DP will be published ahead of the second Turner Review conference which is being held on 2 November 2009.

**Source: FSA Website**

### **FSA REAFFIRMS RESPONSE TO CONSUMER RESPONSIBILITIES**

The FSA has issued a feedback statement reaffirming its regulatory approach to balancing the responsibilities of consumers and firms, which it first set out in DP 08/05.

The 2008 paper articulated how the FSA considers consumer responsibility in its decision and policymaking. For example, the intensity of regulation increases in line with the risks posed to customers by different products. Central to this is the obligation on firms to treat customers fairly.

The DP also explained the links between this work and other FSA initiatives such as the continuing programme of Financial Capability and the FSA's consumer communications.

In that publication the FSA also asked for feedback from industry and consumer bodies to gauge if a wider consensus could be reached as to what is the appropriate balance of responsibility between consumers and firms in the sale of financial services products.

Today's feedback statement acknowledges that the responses reflected a variety of views and there was no consensus. In the absence of wider agreement on where the balance of responsibilities lies between firms and consumers, the FSA will maintain its current approach as set out in the discussion paper.

**Source: FSA Website**

### **REFORM MOMENTUM MUST BE MAINTAINED**

Lord Turner, chairman of the FSA, has insisted that the momentum for regulatory reform must be maintained, despite recent signs of economic improvement.

Speaking at the Lord Mayor's City Banquet, he said that failing to implement a more robust capital and liquidity regime for banks globally could allow a similar crisis to develop in years to come.

He told guests that the banking industry needed to restore trust in the vital role that it performs. Banks should be focusing on their core functions for the economy and society and considering whether they accept business that falls outside this.

This may mean that banks will be lower return, but also lower risk investments; "Bank investments might become more boring, but after the last year, there's a lot to be said for boring."

Lord Turner said that the City is a centre of huge expertise and should continue to be a major provider of wholesale financial services to Europe and the rest of the world. He also stressed that many parts of the financial system "aren't bust and don't need fixing." He added, however: "It is possible to say that, but also recognise that not all financial innovation is valuable, not all trading activity plays a useful role, and that a bigger financial system is not necessarily a better one."

The FSA's response to the crisis has concentrated on ensuring that banks have more capital and liquidity both through domestic requirements and international agreements. But public concern is significantly focused on the debate about bonus levels.

Commenting on this debate, Lord Turner said that: "The focus of initial regulatory attention had been on the structure of remuneration where the FSA has led the world in introducing rules that focus on reducing risk."

However, the aggregate level of bonuses also has implications for the pace at which banks can build stronger capital ratios creating a less risky system.

The international Financial Stability Board will this week state in its report to the G20 leaders that it is essential that banks should prioritise using high profits to rebuild their capital base to support lending and reduce risks. Dividend payments should be consistent with this policy. Regulators will have a legitimate interest in banks' aggregate bonus rates where these have implications for their capital position.

Greater globalisation of financial markets increases the need to find international solutions. The FSA has set out an ambitious agenda for international work in the Turner Review and is fully committed to leading that debate.

**Source: FSA Website**

#### **JON PAIN ON RESTORING CONFIDENCE AND TRUST**

Jon Pain, Managing Director, Retail Markets at the FSA addressed the 17th Gleneagles Savings & Pensions Industry Leaders Summit on the subject of restoring confidence and trust of consumers in the financial services industry.

He commented: "... the industry would be deluding itself if it thought this answered its critics. Looking beneath the headlines, the survey found low scores when it came to whether financial companies have consumers' best interests at heart. This is supported by recent research by Which? that showed that nearly half of consumers (43%) believe that banks would not be sympathetic if they got into financial difficulty, and over a third (37%) didn't trust financial institutions to act in the best interests of the UK economy. I get dismayed when the industry seeks to blame one segment of the industry – consumer confidence is not that discerning."

He then spoke on four main topics:

1. Improving the financial capability of consumers
2. FSA's thoughts on product regulation
3. How the Retail Distribution review is aiming to restore consumer confidence in the investment industry
4. The effect of Solvency II on the annuity pension market

**Source: FSA Website**

### RESPONSE TO EC REGULATION OF FINANCIAL SERVICES

Responding to the publication of the European Commission's proposals on the shape of financial services supervision in the European Union, Stephen Haddrill, the Association of British Insurers (ABI Director General), said: "The ABI has consistently supported a stronger EU-level framework for the supervision of financial services. We believe that this will promote financial stability and competitive markets for financial service in Europe. We support the aims of the Solvency II Directive for the same reasons.

However, we – in common with the whole of the European insurance industry – have serious reservations about the over-zealous interpretation of Solvency II, as proposed by Europe's regulators in CEIOPS. Excessive levels of prudential capital requirements will not be in the interest of consumers.

We will therefore be looking carefully at the Commission's proposals on the supervisory framework to ensure that there are robust checks and balances on the powers to be devolved to regulators.

We are also concerned that the macro-prudential body, the European Systemic Risk Board, is dominated by bankers and does not have enough insurance expertise."

**Source: ABI Website**

### GOVERNMENT REGULATIONS UNACCEPTABLE

The latest batch of regulations to implement the 2008 Pensions Act has been published. The Act introduces automatic enrolment and mandatory employer contributions into workplace pension schemes from 2012.

While the ABI supports the key principle of the Government's pension reform programme – to get more people saving more money for their retirement – the ABI believe that these regulations put the success of the reforms at risk.

The regulations:

- Allow for the phasing-in of employer contributions, starting from 1% in 2012, rising to 2% in 2015 and 3% in 2016
- State that large employers will have automatic enrolment imposed on them before medium, small and micro employers
- Will only be consulted on for six weeks, half the usual consultation period

Maggie Craig, the ABI's Director of Life and Savings, said: "Botched implementation of the Pensions Act will put the success of the reforms at risk. It was always understood that some phasing was necessary, but the four-year delay before contributions rise to 3% is unacceptable.

It means that no employer will have to pay more than 1% until October 2015 – the rate of saving for people in the scheme will move at the pace of the slowest.

As things stand, employers may be encouraged to ditch private schemes, which benefit from higher contributions, in favour of the state-backed scheme where they could pay just 1% for at least three years, with Government approval.

So, at a time when Britain is not saving enough, the crucial first few years of the new system will see less saving.

And the consultation time for these regulations has been arbitrarily cut in half by the DWP, from 12 weeks to just six. We urge the Government to think again on these unacceptable regulations, in the interests of Britain's current and future savers."

**Source: ABI Website**

### **RESPONDS TO MORTGAGE SURVEY**

The Council of Mortgage Lenders (CML) is pleased to note that people are more satisfied with their mortgage lender than they were a year ago, according to a survey from Which? Money.

Overall, average customer satisfaction rose from 58% to 62% and the CML believes this result reflects the efforts that the lending industry has been making to improve customer service and communication.

Commenting on the results, CML director general Michael Coogan said: "It is good news that consumers are increasingly satisfied with their lenders. Lenders have been working hard, under very challenging market conditions, to communicate effectively with their borrowers and treat them fairly. These efforts are bearing fruit, as this survey reinforces."

Beneath the top-line result, however, some caution may be needed. While the total survey is based on a sample of 1,915 borrowers (out of the 11.1 million mortgages in the UK), the numbers relating to each individual lender are modest.

**Source: CML Website**

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