



London Update

UK Financial Services Regulatory Developments

January 2007

JMLSG Issues Further Guidance on Money Laundering Reporting Officers' Annual Reports

On December 4th, 2006, the UK Joint Money Laundering Steering Group ("JMLSG") published a suggested framework for the annual report to senior management required to be prepared by a Money Laundering Reporting Officer ("MLRO"). The FSA has previously issued guidance stating that an MLRO should present an annual report to senior management, but without specifying format or contents. JMLSG's guidance sets out a fairly detailed suggested framework under four general headings: (1) responsibilities for anti-money laundering systems and controls, (2) the operation of those systems and controls, (3) summary of relevant business issues, and (4) conclusions and recommendations for action by senior management. The general aim of the MLRO's annual report should be to reach conclusions on the effectiveness of the firm's systems and controls, and should make appropriate recommendations for improvement in the management of risks and priorities, including resources. The level of detail required will depend on the type and size of the relevant firm and JMLSG emphasizes the need to apply its guidance flexibly in the context of each individual firm.

<http://www.bba.org.uk//bba/jsp/polopoly.jsp?d=362&a=7984>

FSA Publishes Third International Regulatory Outlook Report

The Financial Services Authority ("FSA") published its third International Regulatory Outlook Report on December 13th, 2006.

The Report focuses on four main topics: (1) better regulation, (2) consistent implementation of the European Financial Services Action Plan and common European standards, (3) cross-border supervision and (4) future initiatives of which regulated firms' senior management should take notice; particularly the key European directives being implemented in 2007 such as the Markets in Financial Instruments Directive, Capital Requirements Directive, Transparency Directive and the Third Money Laundering Directive. The Report also identifies issues which particularly affect specific financial services sectors.

http://www.fsa.gov.uk/pubs/iro/iro_2006.pdf

FSA Consultation on Investment Entities Listing Review

On December 14th, 2006, the Financial Services Authority ("FSA") published Consultation Paper (CP06/21) setting out further proposals in relation to its Investment Entities Listing Review. The revised proposed changes to UK listing rules include:

- a proposal to permit investment companies incorporated outside the UK to obtain a London listing based on compliance with the minimum requirements of the EU Prospectus Directive rather than the more stringent listing rules applicable to UK investment companies;
- a proposal to remove the prohibition on closed-ended funds controlling companies in which they invest, thus allowing private equity funds and other closed ended vehicles to pursue a wider range of investment strategies;
- clarification of the information which a primary listed closed-ended fund will have to include in the investment policy it will be required to publish and adhere to;
- revised proposals on the disclosure required in relation to the risk profile of an investment entity whose primary listing is in the UK. The aim of the revised proposals is to provide investors with sufficient information to evaluate an investment company's risk profile whilst addressing concerns that the FSA's earlier proposals required a disproportionate level of disclosure; and

- the introduction of new categories that more accurately reflect the listing obligations that attach to different types of listing.

http://www.fsa.gov.uk/pubs/cp/cpo6_21.pdf

Treasury Announces Working Group to Consider Taxation of UK Funds

On December 14th, 2006, HM Treasury announced the establishment of a joint working group comprising representatives of the Investment Management Association (“**IMA**”), HM Treasury, and HM Revenue and Customs (“**HMRC**”) to consider key tax issues identified in recent studies of the effect of the UK tax regime on UK-based funds and fund managers, in particular the report ***Taxation and the Competitiveness of UK Funds*** commissioned by the IMA. The working group will consider how to improve consultation and communication between HMRC and the fund management sector and will address a number of detailed technical issues.

http://www.hm-treasury.gov.uk/newsroom_and_speeches/speeches/econsecspeeches/speech_est_141206.cfm

HM Treasury and FSA Publish Simplification Plans for Better Regulation

On December 11th and 12th, 2006, HM Treasury and the Financial Services Authority (“**FSA**”) published for consultation plans for the simplification of UK financial services regulation. The two plans are intended to be read together.

The Treasury simplification plan sets out a number of proposals designed to deregulate, consolidate and rationalize existing financial services regulations enforced by HM Treasury and the Office of Government Commerce (“**OGC**”). The overall objective is to reduce by 25% the administrative costs of complying with HM Treasury and OGC regulations.

The simplification plan contains 22 measures, of which the most significant are: reform of the financial promotion regime; simplification of the Regulated Activities Order; reducing reporting requirements for “controllers” (significant shareholders) of regulated entities; and the introduction of a Regulatory Reform Order designed to improve FSA efficiency. Further initiatives relate to improving anti-money laundering, counter-terrorist financing and asset-freezing requirements.

The period for comments to be submitted to HM Treasury extends to autumn 2007.

In conjunction with HM Treasury’s consultation, the FSA published its simplification plan. The FSA outlined progress made to date in areas such as: the reform of conduct of business rules (including financial promotions); improvements to complaints handling and dispute resolution; changes to the approved persons regime; and consolidation work to simplify the FSA Handbook. The FSA plan to continue work on implementing improvements to the joint regulation of firms supervised by both the FSA and the Office of Fair Trading as well as improvements to information sharing and joint enforcement with other regulators. Future work will include a review of the enforcement and decision making manuals and regulations permitting marketing authorized funds of hedge funds to retail investors.

http://www.hm-treasury.gov.uk/media/713/86/better_regulation_simplificationplan.pdf

http://www.fsa.gov.uk/pubs/other/simplify_plan.pdf

FSA Reviews Inside Information Controls

On December 15th, 2006, the Financial Services Authority (“**FSA**”) announced that it had started a thematic review of controls over the handling of inside information on public company takeovers and other mergers and acquisitions. This will be carried out in consultation with the Panel on Takeovers and Mergers.

The work of the review team (which hopes to publish its findings in spring 2007) will involve looking at a small number of deals where a leak of information took place. The review team will hold discussions with key parties to takeovers, some of which are regulated but many of which are not. Those to be contacted will include advisers, lawyers, PR firms, printers, issuers, and debt and equity providers. The FSA will aim to consult on ways to tighten the flow of information, and will, among other matters, review the adequacy of information barriers and stop lists.

http://www.fsa.gov.uk/pubs/newsletters/mw_newsletter18.pdf

Companies Act 2006 Published

In last month's London Update we reported that the Companies Act 2006 had completed its passage through Parliament on November 8th, 2006, but that the final text of the Act was not yet available. The Office of Public Sector Information ("OPSI") announced in early December that the text of the Act, the longest statute ever passed by the UK Parliament, was now available on its website.

http://www.opsi.gov.uk/acts/acts2006/ukpga_20060046_en.pdf

Implementation of Companies Act 2006

On December 18th, 2006, the Government made a Written Statement to the House of Commons providing details about the commencement dates of provisions of the Companies Act 2006.

The provisions in the Act relating to changes to the EU First Company Law Directive (e-communication with Registrar of Companies) will be implemented with effect from January 1st, 2007.

The following provisions linked to implementation of the EU Transparency Obligations Directive will be commenced with effect from January 20th, 2007: (1) the provisions on company e-communications with shareholders and others; (2) provisions concerning a public company's right to investigate who has an interest in its shares; (3) provisions setting out the statutory basis of directors' liability to the company in relation to the directors' report and remuneration report; and (4) all powers to make orders or regulations by statutory instrument.

On April 6th, 2007, the provisions implementing the EU Takeover Directive will commence, and the provisions in Part X of the Companies Act 1985 relating to the disclosure of share dealings by directors and their families will be repealed, as will the age limit on directors.

The Government will consult in February 2007 on detailed implementation plans for the remaining provisions and the whole of the Act will be implemented by October 2008.

On December 27th, 2006, following on from the above, the Department of Trade and Industry published the first commencement order bringing into force the provisions referred above scheduled to commence during January 2007.

<http://www.publications.parliament.uk/pa/cm200607/cmhansrd/cm061218/wmstext/61218m0004.htm#o6121817000508>

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