



London Update

UK Financial Services Regulatory Developments

May 2008

This edition of London Update covers UK and EU developments from March 31 – April 30, 2008.

UK Developments

FSA Launches Consultation on Amended Client Assets Regime

On March 31, the Financial Services Authority (FSA) published CPo8/6 *Review of the Client Assets Sourcebook (CASS)*. The consultation paper seeks views on the FSA's proposals for reforming CASS following the implementation of the EU Markets in Financial Instruments Directive (MiFID) in the UK on November 1, 2007.

The current CASS contains different regimes applying respectively to business both in and out of the scope of MiFID. The proposed new rules are intended to be more "principles based" (consistent with the FSA's move towards more principles-based regulation) and also streamline CASS by creating a regulatory framework which applies to all UK firms' investment business whether or not within the scope of MiFID.

The consultation closes on June 30.

www.fsa.gov.uk/pubs/cp/cpo8_o6.pdf

FSA Fines Stockbroker for Poor Sales Practices

On April 2, the FSA announced that it had fined Mansion House Securities Limited (Mansion House) £122,500 for giving customers unsuitable and inaccurate advice and using inappropriate sales practices when selling higher risk shares.

Mansion House's failings came to light after the FSA reviewed 30 investment recommendations relating to higher risk shares made by Mansion House between May 2006 and January 2007. The review also showed that Mansion House had not set up adequate compliance procedures and that it had failed to ensure that its staff were properly trained.

Mansion House agreed to settle at an early stage of the investigation and is appointing an independent party to assess its systems and sale practices and to determine any appropriate compensation for customers.

www.fsa.gov.uk/pages/Library/Communication/PR/2008/031.shtml

The Future of EU Regulation

On April 4, the FSA published its *International Regulatory Outlook*, setting out developments in international financial services policy. The publication included updates on key legislative measures, interviews with FSA staff, an overview of global standard-setting bodies and commentary on the future evolution of EU regulation.

It is the FSA's view that the EU single market in financial services must be supported by regulatory cooperation in order to provide consistent investor protection. Although financial services regulation is typically directed at the national objectives of each EU Member State, there is a growing body of EU-wide legislation currently coordinated by three regulatory committees: the Committee of European Banking Supervisors (CEBS), the Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS) and the Committee of European Securities Regulators (CESR).

As a result of questions about the effectiveness of these committees, a meeting of EU finance ministers in December 2007 set out a number of possible areas for further consideration. These included undertaking a review of the regulators' powers and their use, creating an EU mandate for national supervisors and implementing common operational guidelines for the operation of colleges of EU supervisors.

The FSA considers that the current arrangements represent a solid basis on which to build and achieve EU regulatory convergence. It is the FSA's view that, in assessing regulatory convergence, it is much more important to focus on outcomes than on the details of implementation.

http://www.fsa.gov.uk/pubs/iro/apr_2008.pdf

Third Party Administrator Fined for Customer Document Failings

On April 9, the FSA fined third party administration firm Liberata Financial Services Limited (Liberata) £525,000 for failures in its systems and controls for producing and issuing documents to life and pensions policyholders. Liberata's failings resulted in 30,000 policyholders not receiving information. Of these, 161 suffered financial loss totaling £17,584.

The FSA found that Liberata had acted recklessly in failing to heed internal warnings that documents were not being produced. Since the failures were identified, Liberata has made changes to its senior management and appointed external consultants to help review its document production system and identify documentation which was not produced. Liberata has also compensated the policyholders who suffered financial loss as a result of its failings.

Liberata agreed to settle at an early stage of the FSA's investigation and thereby qualified for a 30% discount of the original fine of £750,000.

www.fsa.gov.uk/pubs/final/Liberata.pdf

FSA Market Watch 26 Focuses on Market Conduct Issues

On April 29, the FSA published *Market Watch 26*, focusing on market conduct and transaction monitoring issues. It provides an overview of the FSA's strategy for tackling market abuse such as insider dealing through the use of "credible deterrence." *Market Watch 26* reiterates the FSA's enforcement approach and in particular warns again that severe sanctions will be imposed by the FSA for market abuse. As part of its anti-market abuse strategy, the FSA will undertake a thematic review of FSA-authorised firms' policies in relation to the dissemination of false market rumours.

Market Watch 26 also highlights that in 2006 and 2007, "informed price movements" preceded significant announcements related to FTSE 350 companies and public takeovers in 28.6% and 28.7% of cases respectively. This represents an increase from 23.7% in 2005. The FSA considers that these statistics do not necessarily correlate to the level of insider dealing as they may also indicate: (i) financial analysts and the media correctly assessing which companies are likely takeover targets; (ii) deliberate "strategic" leaks of information by a company to position a deal in the marketplace; or (iii) trades by "informed" traders who picked up or derived information from the trades of insiders.

www.fsa.gov.uk/pubs/newsletters/mw_newsletter26.pdf

EU Developments

CESR Finalises Advice on US, Chinese and Japanese GAAP

On March 31, the EU Committee of European Securities Regulators (CESR) published its advice to the European Commission on the equivalence of US, Chinese and Japanese Generally Accepted Accounting Principles (GAAP).

CESR recommended that the European Commission finds US GAAP equivalent to International Financial Reporting Standards (IFRS) for use in prospectuses and other material required to be filed with EU markets. Japanese GAAP may be considered equivalent after the Accounting Standards Board of Japan (ASBJ) achieves certain objectives set out in the Tokyo Agreement between the International Accounting Standards Board (IASB) and the ASBJ in August 2007.

Regarding Chinese GAAP, CESR recommended that the European Commission postpone a final decision until there is more information on the application of the new Chinese accounting standards by Chinese issuers, which is expected later this year for 2007 accounting periods.

www.cesr.eu/popup2.php?id=5004

CESR Publishes Responses to Consultation on Role of Rating Agencies in Structured Finance

On April 1, CESR published responses that it received to its consultation on the role of credit rating agencies in structured finance. The consultation was launched in September 2007 in response to a European Commission request to review the role of Credit Rating Agencies (CRAs) and to consider a possible EU regulatory regime for CRAs to replace the current self-regulatory regime. CESR requested comments on the conclusions it had drawn from its market survey and evidence gathered from the rating agencies.

www.cesr.eu/index.php?page=responses&id=108

OECD Supports Recommendations of Financial Stability Forum

On April 15, the Committee on Financial Markets of the Organisation for Economic Co-operation and Development (OECD) called for the development of a more modern and dynamic framework for financial sector regulation based on the recommendations of the Financial Stability Forum (FSF).

The FSF published a report titled *Enhancing Market and Institutional Resilience* on April 7 which set out its analysis of the causes and weaknesses that have produced the recent market volatility and liquidity crisis and included its recommendations for increasing the resilience of financial markets and institutions.

The FSF recommendations include: (i) strengthening prudential oversight of capital, liquidity and risk management; (ii) enhancing transparency and valuation; (iii) changing the role and uses of credit ratings; and (iv) implementing robust arrangements for dealing with stress in the financial system.

www.fsforum.org/publications/FSF_Report_to_G7_11_April.pdf

European Commission Consults on Amending the Capital Requirements Directive

On April 16, the European Commission launched a public consultation on possible changes to the EU Capital Requirements Directive. The Commission is seeking comments on proposals on the following matters:

- a harmonisation of the definition of hybrid capital;
- capital requirements for default risk in the trading book;
- a definition of the significance of risk transfer;
- technical changes to the securitisation framework; and
- a series of changes to ease the administrative burden.

Responses to the consultation are requested by June 16.

ec.europa.eu/internal_market/bank/docs/regcapital/consultation_en.pdf

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