

FSA Update

1 August 2011

At the FSA last week:

- **Consultation Paper published on auctioning of greenhouse gas emission allowances**

The FSA has published Consultation Paper CP11/14: "Auctioning of greenhouse gas emission allowances", which sets out proposed amendments to its Recognised Investment Exchanges and Recognised Clearing Houses sourcebook (REC) and the Fees Manual (FEES). The FSA is proposing these changes in order to complement the Treasury's implementation of a new regulatory regime applicable to platforms that will conduct auctions in emission allowances. The new regime is being put in place ahead of the start of EU procurement processes to select both a common EU auction platform and one or more national auction platforms. The Handbook amendments the FSA is proposing originate from the introduction of the EU carbon emission allowance auctioning regime that is being implemented under the Commission Auction Regulation (1031/2010). The FSA has invited comments on CP11/14 by 18 September 2011. http://www.fsa.gov.uk/pubs/cp/cp11_14.pdf

- **Consultation Paper published on client assets sourcebook**

The FSA has published Consultation Paper CP11/15: "Client assets sourcebook: (1) Custody liens (2) Title transfer collateral arrangements". The Consultation Paper contains proposals on three different matters relating to the lien rules in CASS. These are:

- interim relief from the effect of the existing rules from 1 October 2011 to 31 March 2012;
- changes in the rules to provide for the taking of certain liens or rights over omnibus clients accounts; and
- changes in the rules in relation to liens or rights over assets held in overseas jurisdictions.

The FSA also proposes to prohibit the use of title transfer collateral arrangements (TTCA) in relation to rolling spot forex contracts offered to retail clients. The deadline for comments on the proposed amendments to CASS is 29 August 2011 for issues concerning the interim relief to the application of CASS 6.3.5 and the prohibition on the use of TTCA in relation to rolling spot forex contracts. The deadline for comments regarding certain custody liens over omnibus client accounts and custody liens in overseas jurisdictions is 28 October 2011. http://www.fsa.gov.uk/pubs/cp/cp11_15.pdf

- **Report assesses hedge fund risk**

The FSA has published a report assessing possible sources of systemic risk from hedge funds and describing some of the survey work the FSA has carried out to address the issue. The report highlights the findings of the FSA's latest hedge fund survey (which focuses on the market channel for the potential systemic risks posed by hedge funds) and the latest hedge

Key Issues

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Consultation Paper published on client assets sourcebook

Report assesses hedge fund risk

Smaller Wholesale Insurance Intermediaries newsletter published

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fund as counterparty survey (which focuses on the credit channel for systemic risk), which were conducted in March and April 2011 respectively. Amongst other things, the key findings of the latest surveys include that:

- nearly all surveyed hedge funds had positive returns for the survey period – aggregate assets below their high-water mark have declined and remain low, enhancing the sustainability of the sector;
- the footprint of surveyed hedge funds within markets is generally small when measured by the value of their holdings, suggesting that, in aggregate, the hedge funds surveyed do not have a major presence in most markets, but convertible bonds, interest rate and commodity derivatives are potential exceptions;
- leverage has not changed significantly in aggregate relative to previous surveys;
- hedge funds appear to have extended the term of their financing recently – nevertheless, the report notes that the risk of a sudden withdrawal of liabilities during stressed markets (particularly a withdrawal of financing)

is likely to remain, with an associated risk of fire sales of assets; and

- counterparty credit exposures to hedge funds remain concentrated amongst a small number of banks and, aside from the apparent extension of average maturities, banks appear to have tightened financing terms for hedge funds post-crisis, increasing their resilience to hedge fund defaults.

The FSA has indicated that it intends to repeat these surveys in September and October 2011.
http://www.fsa.gov.uk/pubs/other/hedge_fund_repo_rt_july2011.pdf

- **Smaller Wholesale Insurance Intermediaries newsletter published**

The FSA has published issue 6 of its Smaller Wholesale Insurance Intermediaries newsletter, which looks at the FSA's new approach to regulation, client money compliance, responsibilities regarding Appointed Representatives, firms' actions on the anti-bribery and corruption report and an IMD2 update.
http://www.fsa.gov.uk/pubs/newsletters/wholesale_newsletter_6.pdf

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