

FSA Update

Last week at the FSA:-

FSA to commence further thematic work on wealth management

The FSA has commenced a new phase of thematic work focusing on wealth management. In a statement released on 29 August, it has set out that it continues to be concerned about the ability of firms to demonstrate the suitability of products sold to retail clients.

The announcement follows a previous phase of thematic work, where the FSA assessed 14 of 16 firms examined as posing a medium or high risk of consumer detriment. That review led to enforcement action and significant remediation programmes in addition to finalised guidance issued in March 2011 and a Dear CEO letter sent in June 2011.

As part of the latest phase of thematic work, the FSA has intends to widen the sample of firms examined, and to interview senior individuals to assess whether firms' systems and controls are adequate. It has indicated that it will be placing particular emphasis on whether firms which were examined in the first phase of its thematic work have put in place remedial measures and whether all firms in the wealth management sector have heeded the warnings and concerns set out in its previous communications.

<http://www.fsa.gov.uk/library/communication/statements/2012/wealth-management-thematic-work>

http://www.fsa.gov.uk/pubs/guidance/g11_05.pdf

http://www.fsa.gov.uk/static/pubs/ceo/dear_ceo_wealth_management.pdf

FSA consults on changes to client money rules for insurance intermediaries

The FSA has (on 28 August) published a consultation paper (CP12/20) detailing proposed changes to chapter 5 of its Client Assets Sourcebook ("CASS"), which sets out the rules for insurance intermediaries handling clients' money.

The proposals aim to clarify the existing rules set out in chapter 5 of CASS to assist intermediaries with applying them to their operations in specific areas including risk transfer, primary and secondary pooling, diversification and record keeping and reconciliation.

The amendments proposed reflect the FSA's experience of regulating insurance intermediaries, for which it assumed responsibility in 2005. During that time, it has taken action against numerous insurance intermediaries, mostly small firms or individuals for failings which have often included breaches of chapter 5 of CASS. The proposals have also been informed by pre-consultation dialogue between the FSA and various representative interested parties.

The FSA has invited firms to respond to the proposals by 30 November 2012.

<http://www.fsa.gov.uk/static/pubs/cp/cp12-20.pdf>

Final Notices: -

The FSA has (on 29 August) refused an application for registration as a small payment institution under the Payment Services Regulations 2009 made by **Yan International**.

<http://www.fsa.gov.uk/static/pubs/final/yan.pdf>

FSA consults on changes to Short Selling Regulation

The FSA has (on 30 August) published a consultation paper (CP 12/21) detailing how it proposes to implement the EU Short Selling Regulation ("SSR") in the UK.

The SSR comes into effect on 1 November 2012. The consultation paper proposes the repeal of the existing short selling regime contained in its Financial Stability and Market Confidence Sourcebook ("FINMAR") and the insertion of new

Key issues

- FSA to commence further thematic work on wealth management
- FSA consults on changes to client money rules for insurance intermediaries
- FSA consults on changes to Short Selling Regulation
- SEC proposes relaxation of general solicitation rules

provisions governing the use of temporary suspension powers and the procedure for review of decisions to prohibit persons from using the market maker and authorised primary dealer exemptions. It also proposes amendments to the Supervision ("SUP") and Decision Procedures and Penalties ("DEPP") sections of the FSA's Handbook to make clear that the FSA's interview and penalty policies apply to investigations relating to SSR, and to require firms to allow FSA staff investigating alleged breaches of SSR access to their premises.

The FSA has invited firms to respond to the proposals by 30 September 2012.

<http://www.fsa.gov.uk/static/pubs/cp/cp12-21.pdf>

Further afield: -

SEC proposes relaxation of general solicitation rules

The US Securities and Exchange Commission has (on 29 August) proposed rules to implement provisions contained within the Jumpstart Our Business Startups Act ("JOBS Act") which remove the prohibition on general solicitation and general advertising in relation to certain offerings by certain private companies seeking to raise capital through the sale of securities.

The SEC is consulting on changes which would permit companies to advertise in newspapers and on the internet. The proposed rules require issuers to take reasonable steps to verify that the purchasers of securities are suitably sophisticated investors.

Although US regulators remain committed to consumer protection, the relaxation of these restrictions may be contrasted with the FSA's recent intensification of its policy of early intervention to restrict the promotion products where it considers that they may cause consumer detriment (see, for example, FSA Update – 28 August 2012).

<http://www.sec.gov/news/press/2012/2012-170.htm>

<https://onlineservices.cliffordchance.com/online/freeDownload.action?key=OBWibFgNhLNomwBl%2B33QzdFhRQAhp8D%2BxrlGRel2crGqLnALtlyZe%2F1IHUM9aDgwiHEo8IRQKH%2Fp%0D%0A5mt12P8Wnx03DzsaBGwslB3EVF8XihbSpJa3xHNE7tFeHpEbaeIf&attachmentsize=127112>

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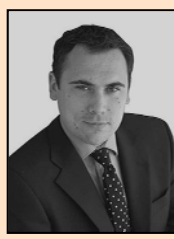
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