

FSA Update

21 February 2011

At the FSA last week:

- **Fines for pension switching advice**

The FSA has fined two firms which failed to check the suitability of the pension switching advice they gave their customers.

- Perspective Financial Management, based in Milton Keynes, was fined £49,000. The FSA found evidence of unsuitable pension advice in five out of the nine cases reviewed. The firm made unsuitable recommendations to customers to switch pensions when the new pension was almost identical to their existing scheme, meaning customers incurred unnecessary costs. The investigation also revealed that customers could not make informed decisions about whether to switch pensions as the firm provided inadequate information on the cost of services associated with the new pension such as discretionary fund management. The FSA also found that the firm failed to put in place any system or procedure to ensure it only recommended Unregulated Collective Investment Schemes to customers who met specific, statutory, exemptions such as customers who were high net worth or sophisticated investors.
<http://www.fsa.gov.uk/pubs/final/pfm.pdf>

- Cricket Hill Financial Planning Ltd, in Barnsley, was fined £70,000, along with the firm's director Jeremy Sheard who will pay £24,500. His colleague Mark Kelsey, responsible for compliance, was issued with a public censure. The FSA found that the firm's advisers were routinely recommending customers switch their pensions to a pension fund risk management service, without sufficiently researching alternative products. The firm could not demonstrate the suitability of this advice, particularly as most of its customers were unsophisticated financially and had small pension pots. The firm and Mr Sheard also failed to identify and manage conflicts of interest adequately. Mr Sheard, for example, owned shares in the risk management service which his firm was advising most customers to use and this was not disclosed. However, no payments, or dividends to shareholders, were made by the risk management service firm to Cricket Hill or its directors and employees..
http://www.fsa.gov.uk/pubs/final/cricket_hill.pdf
http://www.fsa.gov.uk/pubs/final/cricket_hill_sheard%20.pdf
http://www.fsa.gov.uk/pubs/final/cricket_hill_kelsey.pdf

- **Guidance consultation issued on pension obligation risk**

The FSA has published for consultation proposed guidance on pension obligation risk, individual capital adequacy standards (ICAS), and the internal capital adequacy assessment process (ICAAP). The proposed guidance for firms that are subject to the Prudential Sourcebook for Insurers (INSPRU) or the Prudential Sourcebook for Banks, Building Societies and Investment Firms (BIPRU), builds on a previous open letter from Paul Sharma (then Head of the FSA's Department for Prudential and Accounting Standards) to the Association of British Insurers (ABI) of 29 November 2004. The 2004 letter concerned the approach that the FSA would expect insurers to take when evaluating their capital requirements in relation to the defined benefit pension schemes they operate for the benefit of current and former employees. The FSA has now drafted letters with additional guidance on this matter addressed to three relevant trade associations, namely the ABI, the British Bankers' Association (BBA)

Headlines

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Guidance consultation issued on adequacy of year-end reserving

General Insurance Newsletter published

Life Insurance Newsletter published

FSA responds to Treasury Committee request for more disclosure

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and the Building Societies Association (BSA). Amongst other things, the proposed additional guidance indicates that:

- pension obligation risk capital (P2PRC) is intended to enable a firm to meet its pension obligations throughout a period of stress and beyond;
- the FSA uses the actuarial funding valuation prepared for a pension scheme's trustees as a starting point for its own internal assessment of P2PRC;
- where firms choose to value their P2PRC using a different valuation basis, they should be able to explain to the FSA why this is more appropriate than the actuarial funding valuation in their case;
- firms should calculate P2PRC by considering risks to the funding of their pension schemes consistent with a 99.5% confidence level over one year (for INSPRU firms), or a stress event that has no more than a one in 200 probability of occurring in a one-year period (for BIPRU firms); and
- in assessing the allocation of P2PRC within a group, firms should consider those circumstances in which an individual firm may be subject to pension liabilities in addition to those resulting from past and present service of its employees (whether inside or outside the firm).

The FSA has invited comments on the proposed guidance by 15 March 2011.
http://www.fsa.gov.uk/pages/Library/Policy/guidance_consultations/2011/11_06.shtml

- **Guidance consultation issued on adequacy of year-end reserving**

The FSA has published for consultation proposed guidance on the adequacy of year-end reserving. The FSA has concerns about how current market conditions are increasing the risks of inadequate pricing and reserving in the sector, and the proposed guidance is intended to remind the CEO and Boards of their responsibilities in this area and improve reserving practices. In particular, the proposed guidance letter emphasises that:

- it is the Board's responsibility to ensure that adequate reserves are set, and to understand the main assumptions, uncertainties and risks implicit within those reserves;

- firms should be able to demonstrate, when asked, that the processes they follow in setting reserves are robust and subject to adequate challenge;
- firms are expected to take account of all relevant external developments when setting reserves; and
- firms should have a proper understanding of their risk appetite in this area.

The FSA has invited comments on the proposed guidance by 1 March 2011.

http://www.fsa.gov.uk/pubs/guidance/gc11_07.pdf

- **General Insurance Newsletter published**

The FSA has published issue 4 of its General Insurance Newsletter, which contains the latest on Solvency II, details of a stress testing exercise, information about proposed changes to the Insurance Mediation Directive, significant failures in oral disclosure by firms selling protection products and information about the Gender Directive.

http://www.fsa.gov.uk/pubs/newsletters/gi_feb_11.pdf

- **Life Insurance Newsletter published**

The FSA has published issue 4 of its Life Insurance Newsletter, which looks at Solvency II, COBS projection rules for non-MiFID products and the Gender Directive

http://www.fsa.gov.uk/pubs/newsletters/life_feb11.pdf

- **FSA responds to Treasury Committee request for more disclosure**

The FSA's Chief Executive, Hector Sants, has responded to a letter sent by the Chairman of the Treasury Committee, Andrew Tyrie, asking the FSA to provide more disclosure on remuneration of highly paid individuals in FTSE 100-listed banks and comparable unlisted entities, in aggregate form. In his response, Mr Sants has confirmed that the FSA collects aggregated information on the remuneration of 'high end employees' in each of the major firms, although not in quite as much detail by pay band as envisaged in Sir David Walker's Review. However, he stressed that this is sensitive information provided by firms for the purpose of the FSA's regulatory functions. Mr Sants noted that, given the small data set, firms may consider even the aggregated figures to be sensitive and, in view of this, the FSA intends to seek the consent of all the firms concerned on their 2010 remuneration awards before it passes this aggregated information to the Committee. Mr Sants' response further indicated that the FSA does not hold information on the number of people in these firms whose remuneration is equal to or more than the remuneration of the least well paid

executive board member, but that it has asked firms to supply this information as well. However, Mr Sants noted that because the FSA has no power under the Financial Services and Markets Act (FSMA) to compel firms to supply information where it is not required for its regulatory functions, firms will need to decide whether or not they are willing to participate in the exercise. Finally, Mr

Sants stated that, assuming the firms are prepared to release the data and given the reporting timetables of the firms, the FSA hopes to be able to provide the Committee with the aggregated data by the end of April 2011.

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

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