

FSA Update

28 March 2010

At the FSA this week:

- **Business Plan published**

The FSA has published its business plan for 2011/12. The plan sets out the FSA's work programme for the year ahead, focusing on the following areas:

- maintaining ongoing supervision in a period of continued fragility in markets;
- influencing the international and European policy forums, and delivering the new prudential regulatory agenda;
- implementing the current EU major policy initiatives, including Solvency II;
- delivering on the principal national sector initiatives to improve consumer protection – the Retail Distribution Review (RDR) and Mortgage Market Review (MMR);
- improving the FSA's operating systems and the quality of its staff; and
- implementing the government's regulatory reform agenda.
http://www.fsa.gov.uk/pubs/plan/pb2011_12.pdf

- **Policy Statement issued on auditor's client asset report**

The FSA has published Policy Statement PS11/05: "Auditor's client asset report", which reports on the main issues arising from Consultation Paper 10/20: "Improving the auditor's report on client assets" and publishes final rules. The FSA plans to implement most of the proposals in the Consultation Paper. The rules will come into force on 1 June 2011. These rules will affect both regulated firms and their auditors. However, there will be transitional provisions ending 29 September 2011, during which time firms and their auditors have the option of not applying the new rules. After that, auditor's client assets reports with a period ending 30 September 2011 and onwards will be required to follow the new rules.
http://www.fsa.gov.uk/pubs/policy/ps11_05.pdf

- **Market Watch newsletter published**

The FSA has published the 38th edition of its Market Watch newsletter on market conduct and transaction reporting issues. Market Watch 38 contains articles on, amongst other things:

- data integrity;
- monitoring outsourcing arrangements;
- the move from FRN to BIC only for reporting firm ID;
- interfund reporting;
- reporting life-cycle events on OTC derivatives; and
- pricing credit default swaps.
http://www.fsa.gov.uk/pubs/newsletters/mw_newsletter38.pdf

Headlines

Stockbroker banned for market abuse

Proposed Dear CEO letter issued on systems and controls

FSA proposes guidance on derivative risk management

FSA winds up bio-fuel collective investment scheme companies

FSA analyses activity in the energy markets

FSA contacts potential boiler room victims

FSA appoints two senior advisors

If you would like to know more about the subjects covered in this publication or our services, please contact:

Regulatory Group Contacts

[Roger Best](#) +44 20 7006 1640
[Matthew Newick](#) +44 20 7006 8492
[Martin Saunders](#) +44 20 7006 8630
[Carlos Conceicao](#) +44 20 7006 8281
[Luke Tolaini](#) +44 20 7006 4666

FSA Update Editor

[Susan Poffley](#) +44 20 7006 5918

To email one of the above, please use
firstname.lastname@cliffordchance.com

Clifford Chance LLP, 10 Upper Bank Street,
London, E14 5JJ, UK
www.cliffordchance.com

- **Guidance issued on assessing suitability**

The FSA has published finalised guidance on assessing suitability, establishing the risk a customer is willing and able to take and making a suitable investment selection. The FSA says that it is concerned about the level of unsuitable advice and the quality of private client discretionary management services in the market. The purpose of the guidance is to help firms improve the standards by which they are providing investment advice or discretionary management services to retail customers. In particular, it considers:

- how firms establish and check the level of investment risk that retail customers are willing and able to take (in the wider context of the overall suitability assessment);
- the potential causes of failures to provide investment selections that meet the risk a customer is willing and able to take; and
- the role played by risk-profiling and asset-allocation tools, as well as the providers of these tools.

http://www.fsa.gov.uk/pubs/guidance/fg11_05.pdf

- **Delay announced to implementation of SIFs**

The FSA has announced a delay to the implementation of the significant influence functions which were planned to take effect from 1 May 2011.

http://www.fsa.gov.uk/pubs/sifs_statement.pdf

- **Statement issued on emissions market thefts**

The FSA has issued a statement about the alleged thefts of European Union Allowance emissions

certificates from a number of national European registries.

<http://www.fsa.gov.uk/pubs/other/emissions.pdf>

- **FSA publishes with-profits note**

Sheila Nicoll, the FSA's Director of Conduct Policy, spoke at the Alternative Investment Management Association Policy and Regulatory Forum in Brussels on "The Alternative Investment Fund Managers Directive - The road ahead". The speech provided an overview of:

- the timetable for the AIFMD package, noting that the current expectation is that the deadline for final implementation in each Member State will be the middle of 2013;
- the role of industry in shaping the implementing measures;
- the key issues for the ESMA task forces preparing technical advice to the Commission, including consistency with existing rules such as the Markets in Financial Instruments Directive (MiFID) and the Undertakings for Collective Investment in Transferable Securities (UCITS) Directive;
- policy issues, including the question of scope and the requirement to appoint a depositary; and
- third country issues.
http://www.fsa.gov.uk/pages/Library/Communication/Speeches/2011/0317_sn.shtml

This Client briefing does not necessarily deal with every important topic or cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice.

If you do not wish to receive further information from Clifford Chance about events or legal developments which we believe may be of interest to you, please either send an email to nomorecontact@cliffordchance.com or by post at Clifford Chance LLP, 10 Upper Bank Street, Canary Wharf, London E14 5JJ.

www.cliffordchance.com

Clifford Chance LLP is a limited liability partnership registered in England and Wales under number OC323571.

Registered office: 10 Upper Bank Street, London, E14 5JJ

We use the word 'partner' to refer to a member of Clifford Chance LLP, or an employee or consultant with equivalent standing and qualifications.

Abu Dhabi ■ Amsterdam ■ Bangkok ■ Barcelona ■ Beijing ■ Brussels ■ Bucharest ■ Dubai ■ Düsseldorf ■ Frankfurt ■ Hong Kong ■ Kyiv ■ London ■ Luxembourg ■ Madrid ■ Milan ■ Moscow ■ Munich ■ New York ■ Paris ■ Prague ■ Riyadh* ■ Rome ■ São Paulo ■ Shanghai ■ Singapore ■ Tokyo ■ Warsaw ■ Washington, D.C.

* Clifford Chance also has a co-operation agreement with Al-Jadaan & Partners Law Firm in Riyadh.