

# FSA Update

## 11 April 2011

### At the FSA last week:

- **Quarterly Consultation published**

The FSA has published its Consultation Paper CP11/07: "Quarterly Consultation", in which it invites comments on miscellaneous amendments to the Handbook. Amongst other things, the consultation paper proposes amendments to:

- revise transitional guidance applying to certain firms and the provision of the Remuneration Code requiring payment of at least 50% of variable remuneration in shares or other non-cash instruments;
- amend certain prudential rules which would apply to banks' investments in funds and holding companies which make venture capital investments;
- the guidance for completing data items found in the Supervision manual (SUP) and to make the FSA's requirements clearer and to correct errors;
- the Dispute Resolution: Complaints (DISP) sourcebook to reflect how the new statutory power that provides for the FSA to make consumer redress schemes will operate in practice; and
- the Collective Investment Schemes sourcebook (COLL) and the Glossary of definitions as a result of guidelines issued by the European Securities and Markets Authority (ESMA) together with other consequential amendments to the Handbook.

The FSA has invited comments on chapters 2, 4 and 9 of CP11/07 by 6 May 2011, on chapter 3 by 13 May 2011, and on all other chapters by 6 June 2011. [http://www.fsa.gov.uk/pubs/cp/cp11\\_07.pdf](http://www.fsa.gov.uk/pubs/cp/cp11_07.pdf)

- **Consultation published on covered bond regulation**

The FSA and HM Treasury have published a joint review of the UK's covered bond regulation. The review proposes a number of measures intended to ensure UK covered bonds are readily comparable to those from other countries and can compete on a level playing field. It also provides an update on the UK's engagement with its international partners on other areas of policy which relate to covered bonds, including the scope of proposed 'bail-in' powers, which would allow the authorities to impose losses on the creditors of a failing financial institution. The UK authorities believe that in the exercise of any bail-in powers, secured creditors' rights to collateral should not be over-ridden, and that the claims of covered bond holders in relation to the supporting asset pool should not be affected.

Amongst other things, the review proposes the following changes:

- introducing consistent standards of investor reporting;

### Key Issues

Quarterly Consultation published

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Consultation published on covered bond regulation

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Update published on new regulatory structure

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- requiring issuers to maintain a fixed minimum level of overcollateralisation;
- designating a regulated covered bond programme as backed by only a single asset type in the legislation or excluding securitisations as eligible assets for regulated covered bond asset pools;
- creating a formal role of 'asset pool monitor' in the legislation; and
- updating and consolidating the regulatory reporting that the FSA requires when issuers apply to register with the FSA and on an ongoing basis.

The FSA and the Treasury have invited responses to the consultation paper by 1 July 2011.

[http://www.hm-treasury.gov.uk/d/consult\\_review\\_uk\\_reg\\_framework\\_covered\\_bond.PDF](http://www.hm-treasury.gov.uk/d/consult_review_uk_reg_framework_covered_bond.PDF)

- **Update published on new regulatory structure**

The FSA has published a 'Dear CEO' letter providing an update on its plans for the transition to the new regulatory structure announced by the Chancellor of the Exchequer in his Mansion House speech on 16 June 2010. The government plans to transfer prudential supervision of banking and insurance to a subsidiary of the Bank of England, the Prudential Regulation Authority (PRA), and rename the FSA the Financial Conduct Authority

(FCA), which will focus on consumer protection and market regulation. As part of this process, the FSA has now replaced its Supervision and Risk business units with a Prudential Business Unit (PBU) and a Conduct Business Unit (CBU). Hector Sants will be the head of the PBU and will be supported by Andrew Bailey, who joined the FSA on 4 April 2011 as a Bank of England secondee to act as the deputy head of the PBU. Margaret Cole will be interim head of the CBU until Martin Wheatley takes up this role on 1 September 2011. The FSA has also published an organisation plan illustrating the changes described in the letter.

[http://www.fsa.gov.uk/pubs/ceo/reg\\_reform.pdf](http://www.fsa.gov.uk/pubs/ceo/reg_reform.pdf)

**And you may be interested to know:**

- The Complaints Commissioner has recommended (although not formally) that an agreed note of settlement discussions conducted between the FSA and a person under investigation would be useful. In a letter issued on 3 March 2011, the Commissioner dealt with a complaint by a person who was unhappy with the actions of the FSA during the settlement process following an enforcement investigation, but the only evidence of what had taken place was the FSA's own notes, the accuracy of which was disputed by the complainant.

<http://www.fsc.gov.uk/documents/final/GE-L01166.pdf>

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