

FSA Update

16 May 2011

At the FSA last week:

- **FSA publishes Decision Notices under new power**

The FSA has, for the first time, published two Decision Notices for enforcement decisions that have been referred to the Upper Tribunal. The FSA was given this power by an amendment to section 391 of the Financial Services and Markets Act 2000, and explained its approach in Policy Statement PS11/3 earlier this year. The Decision Notices published this week are in respect of:

- Stuart Unwin, who the FSA decided should be prohibited from holding a significant influence function on the basis that he is neither competent nor capable to do so
http://www.fsa.gov.uk/pubs/decisions/stuart_unwin.pdf; and
- Derek Wright, who the FSA decided should be prohibited from all regulated activity, on honesty, integrity and competence grounds.
http://www.fsa.gov.uk/pubs/decisions/derek_wright.pdf

- **Consultation Paper published on data collection**

The FSA has published Consultation Paper CP11/08: "Data Collection: Retail Mediation Activities Return and complaints data", which deals with data collection issues arising from the Retail Distribution Review (RDR) rules on adviser charging and professionalism. CP11/08 also sets out the FSA's proposals for:

- new requirements under the Retail Mediation Activities Return, to allow the FSA to collect data on adviser charging and consultancy charging revenue, payment methods and client numbers, and charging structures, from all firms that provide advice on retail investment products, including firms which provide services on group personal pensions; and
- new complaints data at individual adviser level, which the FSA intends to use in combination with other risk indicators as an indicator of behaviour that could imply potential consumer detriment.

The FSA has invited comments on CP11/08 by July 8 2011

http://www.fsa.gov.uk/pubs/cp/cp11_08.pdf

- **Consultation Paper published on strengthening capital standards**

The FSA has published Consultation Paper CP11/09: "Strengthening Capital Standards 3 – further consultation on CRD 3" which sets out updated proposals for implementing changes to the Capital Requirements Directive (CRD3 – as regards capital requirements for the trading book and for re-securitisations, and the supervisory review of remuneration policies). CP11/09 is an update to CP09/29, which was published in December 2009. In particular, CP11/09 covers:

Key Issues

FSA publishes Decision Notices under new power

Consultation Paper published on data collection

Consultation Paper published on strengthening capital standards

Finalised code of practice for auditors and supervisors published

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

[Roger Best](mailto:Roger.Best@fsa.gov.uk) +44 (0)20 7006 1640
[Matthew Newick](mailto:Matthew.Newick@fsa.gov.uk) +44 (0)20 7006 8492
[Martin Saunders](mailto:Martin.Saunders@fsa.gov.uk) +44 (0)20 7006 8630
[Carlos Conceicao](mailto:Carlos.Conceicao@fsa.gov.uk) +44 (0)20 7006 8281
[Luke Tolaini](mailto:Luke.Tolaini@fsa.gov.uk) +44 (0)20 7006 4666

FSA Update Editor

[Susan Poffley](mailto:Susan.Poffley@fsa.gov.uk) +44 (0)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

- strengthening capital requirements in the trading book;
- higher capital requirements for re-securitisations;
- extending the prudent valuation framework;
- requiring enhanced public disclosures under Pillar 3 of the capital framework;
- amending the FSA's rules for various technical amendments to the CRD; and
- changes to the FSA's reporting rules to require from firms the information necessary to supervise the trading book and securitisation changes.

The FSA has invited comments on chapters 2 to 4 by 11 July 2011 and on chapter 5 by 11 June 2011.

http://www.fsa.gov.uk/pubs/cp/cp11_09.pdf

- **Finalised code of practice for auditors and supervisors published**

The FSA has published its finalised code of practice on the relationship between external auditors and supervisors. This follows the FSA's February 2011 consultation on a draft version of the code. The code of practice sets out principles for auditors and supervisors to follow when they deal with regulated firms. These cover the nature of the relationship between the supervisor of a regulated firm and the firm's external auditor, how often and in what form they should be communicating with each other and the way that information should be shared between them. For certain firms, the code specifies a minimum level of formal meetings between the supervisor, the external auditor and the firm. It also encourages discussions through informal channels to help both supervisors and auditors fulfil their responsibilities towards regulated firms and enhance the effectiveness of the supervisory and audit process.

http://www.fsa.gov.uk/pubs/guidance/fg11_09.pdf

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

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

© Clifford Chance LLP May 2011