



Update on transition to Financial Conduct Authority (October 2012)

Introduction

The Financial Services Authority has issued an initial consultation paper (CP 12/24) describing the new rules being implemented as part of the transition from the FSA to the new dual regulatory structure of the Prudential Regulatory Authority ('PRA') and the Financial Conduct Authority ('FCA'). This follows the decision to abolish the Financial Services Authority as the single common regulator for all types of authorised firms.

The change will take place as part of the implementation of the new Financial Services Bill currently being debated in Parliament and this amends elements of the existing Financial Services and Markets Act. Therefore the final implementation of this structure and detailed rules, and their timing, will be dependent upon the passing of that legislation. However at present the transition is scheduled to take place in early 2013.

Specific points to note from the consultation paper include:

- The two regulators will be the Prudential Regulatory Authority (PRA) and the Financial Conduct Authority (FCA).
- The PRA will focus on the prudential supervision of large financial organisations including banks, building societies and insurance companies.
- The FCA will otherwise supervise all other firms (including many investment firms) for both conduct of business and prudential supervision, and also conduct of business for PRA supervised firms.
- Although the legislation has still to be passed, internally the FSA has already moved to a 'twin peaks' supervisory model.
- There will not be changes to the rules for change sake - a lot of existing rules will be carried across (i.e. designated) into the new regimes where possible.
- The consultation period ends on 12 December 2012, thereafter there will be a Policy Statement with final rules likely at some stage in early 2013. However, the final implementation (i.e. rules and timing) will depend upon the legislation being enacted.
- The FSA also intends to issue an 'Approach Document' by the end of October providing further details on the transition.
- It is likely that the earliest these rules will become mandatory will be towards the end of first quarter 2013. Some rules will have a transition period of up to six months, if required.



- There will be further consultation papers from the FSA resulting from this including on Approved Persons/Controlled Functions.
- There is likely to be greater impact for those firms that will be dual regulated and also for firms where supervision highlights issues as there are key changes to enforcement. Otherwise many of the existing rules may stay the same.

Additional details

Status disclosure

At present all external communications for authorised firms have to disclose the firm's FSA authorised status. In future, this will be changed to 'authorised and regulated by the Financial Conduct Authority'. Therefore such things as letterheads, email footers, product literature etc will all have to be updated to reflect this new requirement. This will be one area where there will be a six month transition rule.

Compliance Manual

Compliance Manuals will have to be updated to reflect the new regulators details and any resulting new rules. Following this, an updated version should be made available to all staff.

FSA Logos

The permission for firms to use the FSA logo (which is trademarked) on certain disclosure documents will be removed and existing documentation will need to be updated.

Supervision & Enforcement

- There will be more use by the FCA of 'Skilled Persons' report as a supervisory tool including that the FCA will be able to commission these directly rather than as happens at present where these are commissioned by the firm involved (albeit normally following a request by the FSA).
- Changes to reporting rules and processes including on Change of Control, Variations or Cancellations of Permission, and Waiver applications.
- In due course, and not directly as a result of this change only, other likely changes to the Financial Reporting system of Gabriel.

Next steps

A link to the full consultation paper is shown below.

<http://www.fsa.gov.uk/library/policy/cp/2012/12-24.shtml>

If not already in progress, firms should be putting together an implementation plan and ensuring that senior management have been briefed on the impending changes.

This briefing note is intended as a summary only of current issues and is not full and/or firm specific advice. For further information including enquiries for full support and project management of FCA implementation, please contact Gillian Gallacher for further guidance.