



## Conflicts of interest between asset managers and their customers

### Introduction

The following note provides general guidance to firms following the FSA's thematic review of Conflicts of Interest Management for asset management firms.

As part of this review, the FSA issued guidance outlining their expectations of asset managers in relation to identifying and managing conflicts of interest between firms and their clients and also between different clients. During the review, they found that too often such conflicts were poorly managed in this sector.

The FSA are looking for all such firms to ensure that they have reviewed their conflicts of interest management processes in light of the above findings. They have written directly to some firms by way of a Dear CEO letter and requested attestation to the FSA on this matter by 28 February 2013.

Any firms which received such a letter should ensure that they have complied with that deadline. Firms should also ensure that any relevant senior staff are aware of the need to inform the Compliance Officer immediately should any Dear CEO communications ever be received directly by anyone other than the Compliance Officer.

Even where the firm has not received such a letter, the FSA recommend that all assets managers should evidence an internal review of the issues involved.

The FSA may take enforcement action against any firms where they identify conflicts are not being managed appropriately.

A link to the paper is attached here.

<http://www.fsa.gov.uk/static/pubs/other/conflicts-of-interest.pdf>

**Key messages** from the FSA include:

- Asset managers must always act in the customer's best interests and put customers interests ahead of their own.
- Similarly, asset managers must treat all of their customers fairly.
- Principle 8 of the FSA Principles for firms requires that a firm must manage conflicts of interest fairly.
- FSA systems and controls rules (SYSC 4 and 10) require senior management of asset managers to establish an effective framework to identify, control and review conflicts of interest.



- Other Conduct of Business rules (COBS) or SYSC rules may be directly related to specific types of conflicts identified by the regulator. This could include COBS 11 in relation to dealing i.e Order Allocation policies.

## Findings from the review

The review looked at a number of areas including the following:

- management systems and controls,
- conflicts in relation to investment management research,
- conflicts in relation to gifts and entertainment,
- how firms ensured that all customers had equal access to investment opportunities; and
- how firms managed personal account dealing by employees.

The findings included that:

- many firms had failed to establish an adequate framework to identify and manage conflicts of interest,
- specific breaches of conflicts of interest rules including COBS rules were identified,
- senior management of firms considered this less of a priority,
- senior management culture is key to implementing effective controls; and
- employees lacked awareness of specific situations or issues,

## Action required by firms

The FSA expect the boards of each asset management firm to discuss these issues and the findings, and where they have received a Dear CEO letter, reply to the FSA within the appropriate timescales. Even where firms have not received a Dear CEO letter, it is recommended that they document an internal attestation in line with the FSA format in this paper.

The FSA has confirmed that follow up reviews will take place in due course and enforcement action may follow for any firms identified with specific issues.

*This briefing note is intended as a summary only of current issues and is not full and/or firm specific advice. For further firm specific information including to request a review of your firm's conflict of interests management arrangements, please contact Gillian Gallacher.*