

# **Wholesale Small Firms' Briefing**

## **Wholesale Brokers**

**Friday 9<sup>th</sup> October 2009**

# Introduction

John King

WSF Wholesale Banks & Investment Firms – Small Firms

# Programme

- **Introduction – John King**
- **Regulatory Reporting – Paulette Melling**
- **Client Assets – Kyra Paraschaki**
- **Markets – Anita Abena-Amoako**
- **Financial Crime / Enforcement – Gemma Kitchen**
- **Policy – Jocelyn McCafferty**
- **Visit Feedback – John King**

# Wholesale Small Firms' Strategy



**To improve the compliance of and increase the engagement with wholesale small firms**

# Regulatory Reporting

Paulette Melling

Central Analysis & Reporting Department  
(CARD)

# Agenda

- **Gabriel (Gathering Better Regulatory Information Electronically) – reporting and alerting process**
- **Gabriel resubmission process**
- **Gabriel overriding of reporting schedules**
- **Late Reporting**
- **Non electronic reporting**

# Gabriel reporting and alerting



- **RMAR (Retail Mediation Activities Returns) & FSA000 Returns**
- **Alerts (rule breaches / crystallised risks) and risk indicators (early warnings)**

# Gabriel resubmission process



- **Resubmission requests are made by the firms due to incorrect completion or by CARD**
- **Firms can make the request through Gabriel to unlock the return to enable resubmission**
- **The firm is advised by e-mail if their request is granted or declined**

# Gabriel overriding of reporting schedules



- **Reporting schedules in Gabriel are driven by the firms permissions which are set up and advised to firms at authorisation and which may require amendment following firms varying their permissions**
- **Requests to make changes to firms reporting schedules may require removal or the addition of data items**

# Late Reporting

- **3 scheduled automated reminder e-mails are sent from Gabriel**
  - 1<sup>st</sup> reminder – 1 day after the reporting period has ended
  - 2<sup>nd</sup> reminder – 10 days before the submission due date
  - 3<sup>rd</sup> reminder – 1 day before the submission due date
- **An administrative fee of £250 is levied where firms report late**

# Late Reporting cont

- **Fee notification e-mail issued 10 working days after the submission due date**
- **Invoice issued requesting payment of the £250 administrative fee**
- **Firms who fail to submit their return are referred to supervision and may ultimately be referred to Enforcement who will take action to cancel the firms permission**

# Non electronic reporting

- **Annual Accounts (SUP 16.12)**
- **Client Asset Reports (SUP 3.10)**
- **Annual Controllers Notifications (SUP15)**
- **Annual Close Links Notifications (SUP 15)**
- **Submission method (SUP 16.3)**

# Questions

# **CASS Visits**

## **Results and Main Messages**

**Kyra Paraschaki**  
**Client Asset Risk Team**

# Background

- **March ‘Dear Compliance Officer’ letter**
- **FRO highlighted risk of increased corporate insolvencies and increased risk of financial crime involving client money**

# Purpose of the review

- **Assess firms' understanding of the CASS rules**
- **Assess the arrangements in place to meet CASS requirements**
- **Identify good and bad practices**
- **Mitigate the risks arising from non-compliance**

# Firms visited

- **Stockbrokers, commodity brokers, insurance brokers**
- **Spreadbetting firms and CFD providers**
- **Major retail firms**
- **Asset managers**
- **Custody banks (Q4 2009)**

# Key issues

## Segregation

- **Segregation of all client money amounts**
- **Spreadbetting / CFDs**
- **Segregation of margin balances**
- **Use of Title Transfer Agreements to opt out clients (clients' best interest?)**

# Key issues

## Trust acknowledgement letters

- Trust letters for all client money accounts
- Trust letters and deposit accounts
- Trust letter details

# Key issues

## Calculation / reconciliations

- **3 Steps: calculation, internal reconciliation, external reconciliation**
- **Good controls can prevent common errors**
- **Periodic reconciliations**

# Key issues

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## Calculation / reconciliations

- **Include all client money accounts**
- **Communication between teams**
- **Risks from manual data input and data transfer between systems**

# Key issues

## Calculation / reconciliations cont.

- Handwritten adjustments
- Adding client debit balances in the client money requirement
- Regular independent checks
- Formal sign-off

# Key issues

## Due diligence and diversification

- **Quality of due diligence**
- **Documenting due diligence**
- **Diversification of banks holding client money**
- **Use of group accounts for holding client money**

# Key issues

## CASS policies, procedures and Management Information

- Clear policies and procedures for staff to follow
- Up-to date and tailored to the business
- Errors and breaches logs
- Escalation procedures and management information

# Key issues

## Other

- **Management oversight and control**
- **Clear assignment of CASS responsibilities**
- **Systems inadequacies and changes**
- **Appointed Reps**

# Future plans



- **Increased frequency of CASS visits in 2010**
- **Policy and consultation projects, e.g.**
  - Rehypothecation
  - Group holdings
  - CASS reporting to the FSA
  - Rule clarification: e.g. TTA; segregation of margin
  - CASS Controlled Function
  - Clarifying and enhancing the CASS audit requirement in SUP 3.10



# Questions

# Markets Update

Anita Abena-Amoako

Market Conduct

# Tackling market abuse and credible deterrence

- **More criminal cases**
- **Increased fines**

# Suspicious Transaction Reports

- Covered by SUP15.10
- Recent review of STR controls at a number of small firms
- Market Watch 33
- Lockwood case

# MA Controls

- Direct Market Access (DMA) – Market Manipulation. Market Watch 33

# Transaction Reporting – Enforcement Action



- **We cannot do our job if you send us poor data**
- **Our standing and influence within CESR is diminished if we send it poor data**
- **Stop sending us poor data!**
- **Unfair on the majority of firms who do take the time and expense to ensure good quality**
- **We much prefer to work with firms to resolve issues**
- **But we will take Enforcement action if necessary....**

# Barclays Fine

- **Fined £2.45m for failing to provide accurate reports to FSA**
- **Eighth largest fine imposed by the FSA**
- **Serious weaknesses in systems & controls**
- **Other cases may follow**
- **Read our web-site and TRUP**
- **Ensure you have adequate controls over your transaction reporting.**

# Impending thematic work

- Sounding out in bond and equities market – Markets Division considering thematic work

## Further Information

- Market Abuse Helpline
  - Tel: 020 7066 4900;
  - Email: [market.abuse@fsa.gov.uk](mailto:market.abuse@fsa.gov.uk)

# Financial Crime Risks

Gemma Kitchen

Financial Crime & Intelligence Division

# Agenda

- **Impact of financial crime**
- **Emerging financial crime risks**
- **Thematic reviews**
- **Enforcement action**

# Why fight financial crime?

- **Social impact**
- **Reputational impact**
- **Economic impact**

**How much do you think fraud costs the UK each year?**

**£20bn**

# Emerging financial crime threats



## Risks in the current climate: Wider economy

- **Fraud increasing**
- **Sophistication of criminals**
- **Consumer awareness poor**

## Risks in the current climate: Firm specific

- **Internal fraud**
- **Firms' capacity to manage risks**

# FSA thematic reviews



- ***Review of firms' implementation of a risk-based approach to AML (March 2008)***
  - Found clear room for improvement in small firms:
    - Staff must be adequately trained
    - Review of AML policies and procedures is not a one-off exercise
- ***Data security in Financial Services (April 2008)***
  - Critical of small firms' awareness and capability to deal with risks:
    - Access to data should be restricted on a need to know basis
- ***Financial services firms' approach to UK financial sanctions (April 2009)***
  - Noted misconceptions in many small firms:
    - No minimum financial limit – even low value transactions are subject to the regime
    - UK individuals and entities are present on the sanctions list

- **Anti bribery & corruption systems & controls in commercial insurance brokers (ongoing)**
  - Interim results published
  - Review to date has found:
    - Weaknesses around third party relationships and payments
    - One size fits all approach
    - Lack of training

## **Credible deterrence:**

- Use of criminal prosecutions
- Larger fines
- More cancellation of permissions
- Complemented by more intrusive supervision

# Key messages

- **Diverting resources from financial crime controls could be costly**
- **Regularly review your financial crime risks - especially in light of changing economic conditions**
- **Use our thematic reviews and Financial Risk Outlook to inform your approach**

# How we can help you



- **Financial crime web pages**

[www.fsa.gov.uk/crime](http://www.fsa.gov.uk/crime)

[www.fsa.gov.uk/MLR](http://www.fsa.gov.uk/MLR) (money laundering)

[www.fsa.gov.uk/smallfirms](http://www.fsa.gov.uk/smallfirms)

- **Newsletter – email to sign up**

[financial.crime@fsa.gov.uk](mailto:financial.crime@fsa.gov.uk)

- **Customer contact centre**

0845 606 9966 (call rates may vary)

Have your firm ref # available

# COBS UPDATE

Jocelyn McCafferty

Consumer information & Financial Promotion

## Key Messages

- **Review of mobile tapping exemption**
- **Best Execution policies**
- **Inducements** - CESR publishes good + bad practice
- **Dealing commission** - Post implementation review
- **Commodities** - EU + International debates.

## Footnote

- **Wall crossing** – Thematic Review on supra wall + wall re-crossing procedures

# Update on mobile taping exemption

## Exemption applied to:

Mobile Phones and  
Mobile Electronic Communications  
.....(except email)

Cost + technology  
issues.

## But technology has moved on. So now assessing:

- 1) Available technology solutions
- 2) Extent of current mobile recording/incremental costs of taping mobile communication

# Update on mobile taping exemption



## Our approach

- FSA survey - 650 firms,
- Consultant's detailed survey – 15 firms
- Face-to-face interviews
- Suppliers survey + interviews

## Timetable

- Survey deadlines: End Sept.
- Review findings and consult relevant internal board: Oct/November

## **IF decision is taken to remove exemption then:**

- CP –Q1 next year (?)
- Implementation of rule change 2011.

# Best Execution: Review of policies



**Jan 2009 - Wholesale thematic review of MiFID implementation.**

## **FINDINGS**

**Generally, Best Ex policies were**

- Terse, vague and generic.

**In some cases we found**

- Poor information to retail clients e.g. execution venue list.
- Uncertainty/confusion over required arrangements and documentation
- **So...**

- **CESR review of good and poor practices**
  - **publication of CP...end 2009.**
- **Benchmark for MiFID compliance**
- **Summary disclosures:**
  - **CESR finds wide variation between firms**

# Dealing Commission- Post implementation Review



## **Conclusion - market is moving towards delivering intended outcomes:**

- Commission rates have fallen.
- Use of dealing commission limited to purchase of 'execution and research'.
- Greater separation of purchase of execution + research.

## **But 'use' of disclosures, still inadequate**

- Limited evidence that they were being used.

**So will continue to monitor this area closely**

# Commodities

## Changes to timetable:

### 1) Expiry date of exemptions for specialist commodity derivatives firms from certain CRD requirements.

- Was end of 2010
- Now 2014.

### 2) MiFID and CRD review on ice until early 2010

- EC Report on MiFID boundary and prudential issues now part of a wider MiFID review...

**Commodities will be influenced at EU and Global Level E.g. G20 announcements.**

# Footnote: Wall Crossing



## FSA Thematic Review

- 1) Procedures for Permanent insiders/  
supra wall arrangements
- 2) Wall re-crossing procedures.

**Purpose:** identify good and bad practice.

**Timeline:** April/May 2010

# COBS Expert: Contact Details



- **Taping** : Stephen Hanks 020 7066 9758
- **Best Execution:** Giles Ward 020 7066 1820
- **Inducements:** Ndidi Njoku 020 7066 7386
- **Dealing Commission:** Paul Richards  
020 7066 5682
- **Commodities:** Stephen Hanks 020 7066 9758
- **Wall Crossing:** Diego Escanero 020 7066  
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# Questions

# Visit Feedback

John King

WSF Wholesale Banks & Investment Firms – Small Firms

# Supervisory Strategy

- **More intrusive supervision**
- **Increased resources and contact**
- **International liaison**
- **300 visits**
  - more selective given our improved data
  - working with Markets

# Policies and Procedures

- **Documentation non existent or out of date**
  - Compliance Manual
  - PA Dealing / Restricted Stocks
  - AML
  - Training
  - Recruitment
  - Whistle Blowing and Mud Slinging
  - Conflicts of Interest
  - Approved Persons / Significant Influence Functions
  - Principle 11

# Capital Adequacy

- **Business Models under threat**
  - Cutting resources
  - Branching out into new areas without experience (countries, CFD trading)
  - Mergers, Change in Control
- **Breaches of Threshold Condition 4**
  - Identified by us rather than management
  - Poor financial planning
  - Quality of capital
- **Group Risk**
- **Liquidity**

# Wholesale Small Firms' Strategy



**To improve the compliance of and  
increase the engagement with  
wholesale small firms**



# Questions