

July 2005

05/10

newsletter



FSA®

★ ★ ★

This newsletter provides a summary of CP05/10. Please see 'Who should read this paper?' below to see if CP05/10 is relevant to you.

Financial Services Authority

Reviewing the FSA Handbook

Money Laundering, Approved Persons, Training and Competence, and Conduct of Business

Why are we issuing this Consultation Paper (CP)?

In our 2005/06 business plan, we made a commitment to review the Handbook, and identify areas where requirements are more restrictive than needed to achieve our objectives; where they do not deliver benefits to justify their costs; or where they are not consistent with our focus on senior management responsibility. This CP is the first phase of our Handbook review programme.

This CP contains detailed proposals for change, and draft Handbook text, in three areas: money laundering; approved persons; and training and competence. It also includes material for discussion about our plans for a new structure for COB.

Who should read this paper?

Chapters 2 to 4 of this CP will be of particular interest to firms and other bodies involved in overseeing, developing and administering: anti-money laundering systems and controls; processes for complying with our Approved Persons regime; and training and competence arrangements within firms. Chapter 5 will be of interest to anyone who uses our *Conduct of Business sourcebook*.

Chapters 2, 3 and 4 each contain a section titled ‘Impact on consumers’, setting out any potential effects on consumers of the specific changes we are proposing. Consumers may also be interested in our plans for reviewing our retail conduct of business regime, which are set out in Chapter 5.

What is the background to this?

Our Handbook presents the standards we expect of regulated firms and is a key vehicle for communicating those standards to the outside world. So, it should reflect our vision and values. These include an approach to rule-making based as far as possible on high-level principles, rather than detailed prescription; a focus on senior management responsibility; and acting in a proportionate and risk-based way. We intervene less where we believe market forces work better; for instance, where business is conducted between market professionals rather than with retail consumers. We also seek to convey our messages in as simple and accessible a way as possible.

The Handbook is long and sometimes detailed, bringing together a legacy of rules from previous regulators – and in some key areas it has been extensively reformed since we assumed our powers in 2001. The Handbook includes new material to accommodate government decisions to increase the scope of our responsibilities; for example, to include mortgage and general insurance business. It is also the means through which numerous European directives are implemented.

Much work has been done to improve the accessibility of the Handbook, particularly by improving our website (www.fsa.gov.uk), but more can be done to improve this further, as well as the simplicity with which the rules and guidance are expressed. Simplifying our requirements, and the way that we express them, should be beneficial to all stakeholders, but may be particularly helpful for small firms and others who do not have access to expert advice.

We also believe the policy content of the Handbook should be kept under review, in a targeted way. Both the financial markets and the overall regulatory environment that firms operate in have changed since our Handbook was introduced in December 2001. Our Business Plan 2005/06 set out the following criteria for identifying areas where we should look to make changes:

- where requirements are more restrictive than needed to achieve our objectives;
- where they do not deliver benefits to justify their costs; or
- where they are not consistent with our focus on senior management responsibility.

We have taken account of these criteria in developing the specific proposals in this CP.

In the overview to the main paper, we summarise our proposals for changing our Handbook requirements on money laundering, approved persons and training and competence, and our plans to restructure and simplify our *Conduct of Business sourcebook* (COB). We also outline our planned forward strategy for reviewing Handbook requirements.

We would like to use this consultation process to gather views from the industry and consumers about how the Handbook should be improved in future, and will use the responses to agree an action plan for achieving these improvements.

How is the paper set out?

In this paper, we review our:

- Money Laundering regime;
- Approved Persons regime;
- Training & Competence regime; and
- retail conduct of business regime.

In the annexes, we include:

- summary information on the contents of the Handbook;
- draft Handbook text for Money Laundering;
- draft Handbook text for Approved Persons;
- summary of proposed changes to the controlled functions;
- draft Handbook text for Training & Competence;
- proposed new structure for the Conduct of Business sourcebook;
- details of forthcoming consultative road-shows; and
- a list of questions.

What are the next steps?

We are inviting you to respond to the questions asked in this Consultation Paper. Comments should reach us by 31 October 2005.

We plan to announce our Handbook Review action plan towards the end of the year and to publish a Policy Statement at the end of January 2006. It will set out the areas we have decided to review in response to suggestions received during this consultation and previously. The Policy Statement will include feedback received on the proposed changes to our Money Laundering regime. It will also announce whether we are going to consult on further changes to the Approved Persons regime and our Training and Competence rules, in the light of responses received.

We have not set a date for implementing these proposals, but do not intend to bring any of the new rules consulted on in this CP into operation before April 2006. As the Joint Money Laundering Steering Group is currently revising its guidance in this area, we will need to consider the timing of the implementation of our rule changes in the light of this.

Responses to our discussion on COB simplification, in Chapter 5, will be taken into account as part of that work, which will proceed once the detailed 'Level 2' provisions of the Markets in Financial Instruments Directive (MiFID) have been agreed in a European context. Feedback on those responses will be published in the CP on COB Simplification planned for the first quarter of 2006.

This newsletter summarises Consultation Paper 05/10. The Financial Services Authority invites comments on this CP. Comments should reach us by 31 October 2005.

Comments may be sent by electronic submission using the form on the FSA's website at (www.fsa.gov.uk/pages/library/policy/cp/2005/cp05_10_response.shtml).

Alternatively, please send comments in writing to:

Helen Roberts
Handbook Review
General Counsel's Division
The Financial Services Authority
25 The North Colonnade
Canary Wharf
London E14 5HS

Telephone: 020 7066 3094 Fax: 020 7066 3095 E-mail: HandbookReview@fsa.gov.uk

It is the FSA's policy to make all responses to formal consultation available for public inspection unless the respondent requests otherwise. A standard confidentiality statement in an e-mail message will not be regarded as a request for non-disclosure.

How can I get the full paper?

You can download the full Consultation Paper from:

www.fsa.gov.uk/pages/Library/Policy/CP/2005/05_10.shtml

Or you can order hard copies of the paper:

Phone our helpline on 0845 608 2372, quoting reference CP05/10

Order online at: www.tso.co.uk/bookshop/bookstore.asp?FO=1159966&DI=510776

Copies are available at £20 each. Please allow five working days for delivery.

We also have a targeted email alert service for all FSA newsletters.

To subscribe please visit: www.fsa.gov.uk/pages/Doing/Contact/Register/index.shtml

For more information on our publications, please go to:

www.fsa.gov.uk/Pages/library/index.shtml

To get the latest information online, please visit our home page:

www.fsa.gov.uk