

December 2008



FSA®

# 08/25

*newsletter*



This newsletter provides a summary of CP08/25. Please see the section ‘Who should read this paper?’ to see if CP08/25 is relevant to you.

Financial Services Authority

## The approved persons regime – significant influence review

### Why are we issuing the Consultation Paper?

This consultation paper (CP) contains proposals to:

- extend the definition of the existing CF1 (director) and CF2 (non-executive director) controlled functions, to capture those individuals who exercise significant influence on a regulated firm from a parent undertaking or holding company within its group, which is unregulated by us or any other European Union Financial Services regulator
- clarify the role of non-executive directors within our Code of Practice for Approved Persons (contained in APER in our Handbook);
- extend the definition of the CF29 controlled function to include appropriate proprietary traders with the expectation that this will capture all proprietary traders;
- amend the application of the approved persons regime to UK branches of third country firms so that all the controlled functions may apply; and
- extend the rule obliging firms to provide references for applicants of the CF30 (customer function) to all controlled functions.

## Who should read the paper?

This paper will be of particular interest to authorised firms (including their parent undertaking and holding companies where the proposals extend to individuals based in those firms) and those applying for authorisation, as well as others involved in recruiting employees for controlled functions and in overseeing, developing and administering processes for complying with our approved persons regime.

## What is the background to this?

At the end of 2007 our senior executive team commissioned an Internal Audit review of lessons learned from our supervision of Northern Rock. Recommendations from that report were published in March 2008. In response to those recommendations and other initiatives, the Supervisory Enhancement Programme was established to implement those improvements. The recommendations included: 'FSA to increase the rigour of its day-to-day supervision'.

This specifically mentioned a focus on increasing the thoroughness of our supervision where issues regarding the competence of firms' management were identified. As a result we reviewed our approach to the significant influence controlled functions to see where improvements could be made and to examine whether the regime reflected corporate governance structures within the industry.

We have already made a number of changes in our approach to those who carry out a significant influence controlled functions as a result of our review. These are set out in Chapter 2. This consultation sets out further changes which would require amendment to our handbook.

## How is the paper set out?

The main body of the paper outlines the key messages; the scope and application of controlled functions CF1 (director) and CF2 (non- executive director); the role of non-executive directors; extending the regime to include all proprietary traders; and other proposed changes. Annex 1 contains the cost benefit analysis and compatibility statement. Annex 2 contains a list of questions.

## What happens next?

Consultation on the proposals closes on 31 March 2009. We will then finalise the proposals and publish the final rules in a Policy Statement during the second quarter of 2009.

This newsletter summarises Consultation Paper 08/25. The Financial Services Authority invites comments on this CP. Comments should reach us by 31 March 2009.

Comments may be sent by electronic submission using the form on the FSA's website at ([www.fsa.gov.uk/pages/library/policy/cp/2008/cp08\\_25\\_response.shtml](http://www.fsa.gov.uk/pages/library/policy/cp/2008/cp08_25_response.shtml)).

Alternatively, please send comments in writing to:

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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.

A confidential response may be requested from us under the Freedom of Information Act 2000. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by the Information Commissioner and the Information Tribunal.

## How can I get the full paper?

You can download the full Consultation Paper from:

[www.fsa.gov.uk/pages/Library/Policy/CP/2008/08\\_25.shtml](http://www.fsa.gov.uk/pages/Library/Policy/CP/2008/08_25.shtml)

Or you can order hard copies of the paper:

Phone our helpline on **0845 608 2372**, quoting reference **CP08/25**

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