

Financial Services Authority Energy Market Participants and Oil Market Participants; a consultation on the interim regulatory regime for EMPs

June 2001

About this newsletter

This newsletter provides a summary of FSA Consultation Paper 96 – Energy Market Participants and Oil Market Participants; a consultation on the interim regulatory regime for EMPs

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Executive Summary

This consultation paper sets out our (the FSA's) proposals for firms carrying out certain regulated activities in relation to the energy markets: the Energy Market Participants (EMPs) regime. This consultation paper will also be of interest to those doing business with EMPs.

The proposed regime is based upon the current Securities and Futures Authority (SFA) regime for Oil Market Participants (OMPs). The SFA has set up a parallel regime¹, for firms who transact regulated activities based on electricity, gas, oil, coal and certain other energy-related products. This paper explains how we will carry forward that regime after implementing the Financial Services and Markets Act. This paper explains our regulatory approach and sets out those parts of our Handbook of rules and guidance that will apply to EMPs and OMPs.


The EMP regime is a disapplication and modification of the requirements of our Handbook, to reflect the risks posed by these activities to our statutory objectives. We are committed to working with market participants to ensure that this disapplication of parts of the Handbook is balanced by high standards of controls and risk management. We will monitor activity within the energy markets to make sure that the EMP regime continues to be consistent with our objectives. If the grounds for the regime change, in terms of the nature of the market participants or the conduct and stability of those participants, then we will consider whether the regime remains appropriate.

The EMP and OMP regimes set out will apply for a limited period. We are committed to reviewing the structure and terms of these regimes in the light of how they allow us to meet our statutory objectives. This paper explains how we propose to develop the regime and seeks views on the appropriate regulatory framework in the longer term.

The Regulated Activities Order (RAO)² sets out certain exclusions and this paper provides guidance on their application, in particular that of the risk management exclusions under Articles 19 and 23 of the RAO. This paper also gives some guidance for firms considering whether they need to seek FSA authorisation and on the authorisation process.

¹ Board Notice 585, published May 2001, attached as Annex F

² The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (SI 2001/544)



While there may be a retail interest in the efficiency and effectiveness of these markets on the part of consumers as purchasers of gas and electricity in the home, and of petrol on the garage forecourt, we do not consider our role under the Act to extend to protecting the public from price fluctuations or to ensuring continuity of supply. The gas and electricity markets are subject to the oversight of the Office of the Gas and Electricity Markets (Ofgem). This paper sets out how the FSA and Ofgem will continue to co-operate, seeking to ensure that both regulators efficiently and effectively meet their different statutory objectives whilst minimising duplication of effort and unnecessary cost for firms.

The Financial Services Authority invites comments on this Consultation Paper. Comments should reach us by 17 July 2001.

You can send your response by electronic submission using the form on the FSA's website (at www.fsa.gov.uk/pubs/cp/cp96_response.html), by e-mail or in writing to the following:

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E-mail: cp96@fsa.gov.uk

Enquiries regarding the need for authorisation should be directed to Melanie Keyes, Authorisation Enquiries, telephone 020 7676 4706.

Enquiries regarding the authorisation process should be directed to Saleha Bilal, Corporate Authorisations, telephone 020 7676 6548.

It is the FSA's policy to make all responses to formal consultation available for public inspection unless the respondent requests otherwise.

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