

Financial Services Bulletin

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News

A new approach to financial regulation: judgement, focus and stability

On 26 July 2010, the Treasury published the consultation document, A new approach to financial regulation: judgement, focus and stability. It sets out the Government's proposals to reform the UK's financial regulatory framework. These proposals will fulfil the Coalition Government's commitment to provide the Bank of England with control of macro-prudential regulation and oversight of micro-prudential regulation.

The new system will be designed to challenge practices that may threaten the stability of our economy, while bringing a greater level of protection for consumers. In brief, the Government intends to create:

- a Financial Policy Committee (FPC) in the Bank of England;
- a new Prudential Regulation Authority (PRA) as a subsidiary of the Bank; and

- a strong independent consumer protection and markets authority (CPMA).

The Government will abolish the tripartite structure and the Financial Services Authority (FSA) will cease to exist in its current form. The Government intends to complete the process of transition to the new regime by the end of 2012.

At the launch of the consultation, the Financial Secretary to the Treasury, Mark Hoban MP, said: "We want to create a new supervisory approach that takes into account the lessons of the past but that is also designed for the future – a future in which supervisors should have greater discretion to use their own judgement, and to take a more risk-based approach to their work."



HM TREASURY

Agreement reached on EU Supervision Package

The Chancellor announced on 22 June 2010 that the financial crisis has shown it is imperative to get the regulatory framework right for the future strength and stability of the UK, European, and global economy. Member States of the EU and the European Parliament have now unanimously agreed on the new architecture for financial supervision in Europe, including the establishment of three new European Supervisory Authorities and a European Systemic Risk Board.

The new framework will fundamentally improve the quality and consistency of supervision, ensure more effective rulemaking and enforcement, and better identify systemic risks in Europe's financial system. The proposals are supported by the City, and in particular cross-border institutions operating from London.

The deal represents a very good outcome for the EU and the UK. While facilitating better co-ordination of supervisors, the final deal ensures national governments and regulators retain their frontline responsibility to protect national taxpayers' interests, and therefore that the key decisions must remain national while ensuring greater supervisory standards across the EU. The framework will come into force on 1 January, when the new authorities are due to be established and up and running.

Securities Law Directive (SLD)

The European Commission is due to launch a second public consultation to feed into a planned Securities Law Directive. The Directive seeks to address legal barriers to the safe and efficient treatment of securities post-trade, which have arisen as a result of electronic book-keeping and due to the ways in which securities are often held through a chain of account providers. Greater legal certainty will be provided by harmonising EU law with respect to securities that are electronically recorded and to address conflicts-of-law regarding

ownership. In addition to defining how securities can be bought, lent or sold, the Directive will:

- require account providers to maintain sufficient securities against assets;
- help clarify investor protection in the event of an account provider becoming insolvent; and
- help facilitate investor rights pertaining to those securities

The Directive will cover all markets and all securities across Europe, and affect a number of industry participants that previously fell outside the scope of regulation such as the Markets in Financial Instruments Directive (MiFID). It will have a considerable impact on the way that securities are held and traded in the EU, enhancing protection for investors by clarifying the legal status of securities at all stages of the financial transaction.

The Financial Services Act 2010: an update on commencement

On 8th April 2010 the Financial Services Act 2010 received Royal Assent. The Act makes provision for various sections to be commenced by order at a later date chosen by the Treasury or the Secretary of State.

The Financial Services Act 2010 (Commencement No. 1 and Transitional Provision) Order 2010 is due to be made shortly and will commence the following sections with immediate effect:

- a) section 2(2) to (4), which remove the FSA's public awareness objective, require the FSA to consider the desirability of improving public knowledge of financial matters, and insert into its consumer protection objective a requirement to have regard to information provided by the Consumer Financial Education Body (CFEB);

- b) section 13, which widens the categories of supervisory notices given by the FSA that may be published to include decision notices;
- c) section 14, which enables the FSA to make rules requiring firms to establish consumer redress schemes; and
- d) section 17 and other provisions which relate to allowing the Treasury to require the Financial Services Compensation Scheme (FSCS) to act on behalf of other schemes.

This Order also brings into force on 1st April 2011 the following provisions:

- (a) paragraph 13 of Schedule 1A of the Financial Services and Markets Act 2000 (inserted by the Financial Services Act) which gives the Office of Fair Trading the power to levy consumer credit licensees or applicants to meet a proportion of CFEB's costs; and
- (b) paragraphs 15 and 16 of Schedule 1A which give the FSA the power to appoint an independent reviewer of the effectiveness of CFEB.

The Order can be found on the [Legislation.gov.uk](http://legislation.gov.uk) website.

Further commencements will be announced in due course.

The FSMA (Contribution to Costs of Special Resolution Regime) Regulations 2010

The Financial Services and Markets Act 2000 (Contribution to Costs of Special Resolution Regime) Regulations 2010 (S.I. 2010/2220) were made on 7 September 2010 and came into force on 8 September 2010. These regulations make revised provision allowing the Treasury to require the Financial Services Compensation Scheme (FSCS) to contribute to the cost of using the special resolution regime established in Part 1 of the Banking Act 2009. The Financial Services and Markets Act 2000 (Contribution of Costs of Special Resolution Regime) Regulations 2009 (S.I. 2009/807) were then revoked.

Live consultations

The following consultations are currently open for responses.

A new approach to financial regulation: judgement, focus and stability

This consultation has launched to gather views on the Government's proposals to reform the UK's financial regulatory framework, providing the Bank of England with control of macro-prudential regulation and oversight of micro-prudential regulation.

This consultation is aimed at financial services firms, including banks, building societies, insurance firms, Independent Financial Advisors, exchanges, brokers and related trade associations, as well as consumer representatives. The closing date for responses is **18 October**.

EU Directive 2009/44/EC on settlement finality and financial collateral arrangements

On 6 May 2009 the European Parliament and Council adopted Directive 2009/44/EC (the "Amending Directive"), which amends Directive 98/26/EC on settlement finality in payment and securities settlement systems (the "SFD") and Directive 2002/47/EC on financial collateral arrangements (the "FCD"). Member states have until 30 December 2010 to adopt and publish their implementing measures, which are to apply from 30 June 2011.

This consultation is aimed at participants in the payment and settlement industry and other interested parties such as legal in solvency specialists. The deadline for responses is **29 October**.

Web links

News

Securities Law Directive

http://ec.europa.eu/internal_market/financial-markets/securities-law/index_en.htm

The Financial Services Act 2010: an update on commencement

<http://www.legislation.gov.uk/>

Live consultations

A new approach to financial regulation: judgement, focus and stability

http://www.hm-treasury.gov.uk/consult_financial_regulation.htm

EU Directive 2009/44/EC on settlement finality and financial collateral arrangements

http://www.hm-treasury.gov.uk/consult_amending_directive_implementation.htm

Any comments on the bulletin,
please email fsma.bulletin@hmtreasury.gsi.gov.uk

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