Welcome to the 6th edition of the Financial Supervision Commission’s (“FSC”) news update which gives a short overview of recent initiatives and events which are of interest to, and impact upon, licenceholders.

Topics in this issue –

- General Supervision update
- Banking update
- Fiduciaries update
- Funds and investment services update
- Authorisations and licensing
- AML/CFT, public warnings, notices, sanctions
- Consultation
- Legislation

**General Supervision update**

*Alternative Investment Fund Managers Directive (AIFMD)* – Policy Division is continuing to monitor AIFMD developments and dialogue is continuing with the Funds Development Group and the ACSP.

*Reducing the costs of compliance for smaller licenceholders* – The FSC continues to receive applications for an exemption from the requirement for audited financial statements. Licenceholders who wish to apply and who think they may qualify for the exception should apply to the FSC. The main criterion is to have a turnover below £250,000.

A *Guidance note on advertising, distribution and promotion of financial services* was issued on 2 November.

**FATCA** – Further to the IoM Government’s press release on 9 October about US FATCA, a further statement was issued on 30 November.

A *UK tax information sharing agreement*, similar to FATCA, was announced on 7 December. Such agreements are relevant to all licenceholders.

*Eligible introducers* – The FSC was pleased to receive a 100% response to the online questionnaire issued in June 2012 to a sample of 30 licenceholders about use of the eligible introducer regime. An analysis of the responses was published in October.

**Banking update**

*Statistics* – Latest deposit base figures and quarterly banking statistics were published on 4 December. Proposals to improve quarterly data on banks’ lending portfolios are being progressed.

*AML/ CFT visits* – Themed visits to banks, focusing on certain AML/CFT risks, are on schedule and are planned for completion by the end of February 2013. Feedback will be issued to banks after this date, and key findings will also be published on the FSC’s website.

*Independent Commission on Banking (“ICB”)* – A joint letter with Jersey and Guernsey was sent to HM Treasury in response to the UK White Paper on 6 September. The FSC has continued to work closely with the industry on ICB implications during the latter part of 2012 and expects to receive an update from HM Treasury during December.

*Structured deposits (and packaged accounts)* - The FSC will be publishing a questionnaire to banks on the subject of structured deposits before the end of 2012. The questionnaire is designed to help formulate views on how such products should be treated and sold in the future, and if any changes will be needed to Rules and guidance in the Isle of Man. Work on “packaged accounts” may follow in 2013.

*Basel III* – A joint discussion paper with Jersey and Guernsey was issued in September for comments by 12 December 2012. Further work on Basel III will be undertaken during 2013, taking into account the industry feedback that is received.

*ICAAP* – The release of updated guidance on the ICAAP has been delayed, with a revised completion date of 31 March 2013.
**Fiduciaries update**

*Client money* – Reconciliation is usually performed in accordance with the Rule Book, but fiduciaries must ensure that accounts with nil balances are also reconciled, to evidence they have not been used.

*Questionnaires* – A questionnaire (details) has been issued about listed, quoted and other public companies. During 2013 the FSC will follow up several themes including standards of technical compliance and the external scrutiny to which listed and quoted companies are subject.

*Lending and conflict of interest* – Some CSPs and TSPs have encouraged client-to-client lending – either peer-to-peer or intermediated. The FSC is concerned about the consequent risks of conflicts of interest, financial risk, litigation and reputational risk. Inevitably some loans have run into difficulties.

*Company strike-offs* – The FSC has received a list of initial strike-off advisory letters from Companies Registry and has written to those CSPs whose names appear most frequently. CSPs should ensure that client companies are formally wound up via either voluntary dissolution or voluntary winding up and not left to go into ‘freefall’, particularly where CSPs are acting as directors to these companies.

Only in exceptional circumstances will an orderly winding-up not be possible and so the reasons should be documented.

*Complaints about fiduciaries* – The main themes in 2012 have been:
- Quality of service;
- Failure to reply to correspondence promptly;
- Customers being suspicious of service providers who do not provide information;
- Unregulated businesses connected to IoM regulated businesses - referred to the FSC as the only regulator linked to the group.

*Risk-based approach to AML/CFT* – The risk-based approach is the international norm which should help licenceholders focus on key AML/CFT risks. However this approach involves significant work and certain aspects may be missed or misunderstood. Issues have arisen in two main areas: lack of clarity about assessment method and how risks are addressed; and failure to distinguish between the AML/CFT risk profile and the business risks covered by Rule 8.6.

**Funds and investment services update**

*Retail Distribution Review (RDR)* - The FSC published an [RDR update](details) on 3 October providing further details on the FSC’s approach to RDR and financial adviser competence. The RDR working party (which includes representatives from the FSC, FPIBA, PFS, CII, IOMBA and CISI) held its latest meeting on 12 November. The FSC will be asking for a further update on advisers’ progress towards meeting the level 4 standard in the New Year.

The FSC held a briefing for Senior Professionals about the new IoM Alternative Assessment process developed with the UK CISI - for further details please contact claire.whitelegg@fsc.gov.im.

*Industry liaison* - The FIS team holds quarterly meetings with FPIBA and also participates in the Funds Development Group.

*Pensions advice* - A [guidance note](details) relating to expectations of licenceholders that provide pensions advice was issued on 17 October. The FSC is also undertaking a series of themed pension visits to financial advisers and feedback on the findings will be issued in due course.

**Authorisations and licensing update**

*Licensing policy* - The [licensing policy](details) is to be updated soon, mainly to reflect the 2012 revisions to Class 6 and Class 8 and the Financial Services (Miscellaneous Amendments) Bill.

*Training and Competence framework* – The [training and competence framework](details) will also be reviewed to ensure it remains appropriate.

**AML/CFT, public statements, warnings and sanctions**

*AML/CFT Handbook updates* The [AML/CFT handbook](details) was updated on 1 November, incorporating changes to reflect FATF Statements issued on 19 October 2012.

*Sanctions updates*  
4 December: [Syria](details)  
29 November: [Terrorism & terrorist financing](details)
14 November: Belarus
12 November: Iran
31 October: Al Qaida
17 October: Somalia
4 October: Ivory Coast and Burma/Myanmar
30 August: Liberia

Bogus offers of employment
6 November: Nobles (Isle of Man) Hospital
6 September: Sprint Hospital etc

Bogus websites
12 October: Montgomery Roth International
31 August: Abacus Financial Services Ltd
15 August: Guaranteed Stone Banking Services

Other public statements & warnings
30 November: Bells Global PLC/Dr Alfred Goodman
22 October: Afrovet Laboratories
5 October: Louis Group

Consultations
The Government’s consultations are accessed via this link. Of likely interest to licenceholders is the current consultation on the draft Money Laundering and Terrorist Financing Code 2013.
No FSC consultations are open now, but information on closed consultations, which includes summaries of responses, may be accessed via this link.

Legislation
The Financial Services (Miscellaneous Amendments) Bill 2012 is now being considered in the Legislative Council, following approval by the House of Keys in the autumn.

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