Welcome to the 8th 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 update
- AML/CFT, public notices, warnings, sanctions
- Consultations
- Legislation.

General Supervision update

**Revisions to the Rule Book, Regulated Activities Order and Exemptions Regulations** – The consultation was open between 27 June and 31 August. The FSC aims to finalise draft legislation for Tynwald’s consideration in December.

**Alternative Investment Fund Managers Directive (“AIFMD”)** – The legislation in each Member State transposing the AIFMD came into effect in July. An initial tranche of bilateral Co-operation Agreements has been signed between the FSC and EEA competent authorities. Further agreements are expected to be signed soon. The FSC’s original press release was issued on 9 July.


FATCA – The USA published a draft of the registration process on 8 August. It is expected that the IoM’s IGA’s with the UK and USA will be signed (by Income Tax Division of IoM Treasury) soon. Please continue to monitor IoM Government’s FATCA pages for information. Further information is on HMRC’s FATCA pages. Income Tax Division of IoM Treasury recently issued a Taxation Order, Article 6 of which requires all licenceholders to inform relevant clients of the Disclosure Facility issued by HMRC, before the end of 2013.

**Finance Sector Briefing** – A briefing was held at the Manx Museum on 24 July to provide an update on local and international regulatory developments.

Authorisations update

**Key Person roles at multiple licenceholders** – The FSC has recently considered its approach to assessing the competence of individuals that hold Key Person roles across multiple licenceholders.

The FSC acknowledges the use of part-time specialists (particularly for disciplines such as compliance) as a legitimate and potentially optimal approach for some licenceholders. This can present certain challenges, including ensuring whether there is sufficient capacity and access to the individual.

To process vetting for these appointments, the FSC requires specific information as part of, or in addition to, the standard vetting forms. The requirements have not changed as a result of this exercise; they have been formalised to ensure a consistent and timely approach.

The FSC has written to individuals who currently hold multiple key roles to ensure that they are familiar with the requirements. A formal reminder will be made shortly to all licenceholders.

**Licensing Policy** – The FSC updated its General Licensing Policy in July following the Miscellaneous Amendments Act. The policy is reviewed and updated periodically to ensure that it remains in-line with current practice and legislation. The main changes are:

- The introduction of the prohibition power and corporate controllers, and associates and the inclusion employees of an applicant in determining fitness and propriety
- Clarification that the FSC may consider the cumulative effect of matters in determining a licence application
- Updates to reflect revised AML/CFT legislation.
Banking update

Domestic Systemically Important Banks (“D-SIBs”) – A tripartite meeting was held in July with Jersey and Guernsey to discuss how to apply a D-SIB framework in the Crown Dependencies. It was agreed that a joint paper would be published in the autumn to provide further details on the proposed approach, in conjunction with the work on Basel III.

UK Banking Reform – In July the UK published its consultation on draft secondary legislation including proposals to require certain banking activity to be ring-fenced in large banking groups. The FSC participates in an IoM Government Working Group covering the implications of the UK’s proposals. The UK consultation closes on 9 October.

Basel III – A tripartite meeting was held in July with Jersey and Guernsey to discuss proposals. It was agreed that a joint paper would be published in the autumn providing further details on the proposed approach to Basel III in the Crown Dependencies.

Transfer of business including deposit-taking – The consultation on draft Regulations regarding the transfer of business from one deposit taker to another entity remains open until 18 September. Banks are asked to consider this carefully.

Statistics – The latest deposit base figures and quarterly banking statistics were published on 30 August.

Fiduciaries update

Client money visits – The Fiduciary team has begun its programme of client money visits. These are ‘smart supervisory’ visits with a principal theme that also look at the wider picture. For example, in addition to looking at the handling of client money, the visit team will typically follow transactions back to consider the activity of the relevant client company or trust and the CDD on connected persons.

Trusts and Limited Liability Companies Amendment Bills – The Treasury’s consultation on the Trusts Amendment Bill closes today. The consultation on the Limited Liability Companies Amendment Bill is open until 16 September.


Companies (Beneficial Ownership) Act 2012 – The FSC circulated a link to the Companies Registry’s announcement on the above act and resultant modifications to the Annual Return to Companies Registry under the Companies Acts.

Funds and investment services update

Financial advisers and suitability of advice – Protection of consumers continues to remain a focus for the FIS team, which has worked closely with the Policy and Legal Division in relation to the draft Rule Book amendments recently consulted upon. The 2013/14 visit cycle will continue to focus on suitability of advice (particularly to the vulnerable). The visits focusing on suitability of advice for pension business have finished and feedback will be provided. Staff spoke at the CISI Regulatory Update on 12 June.

UK Designated Territory Status – The regime in the UK has now changed and future marketing of Authorised Schemes into the UK requires individual recognition by the UK FCA of each fund. This change to the UK regime will affect all Authorised Schemes that wish to market into the UK to the UK retail public.

Statistics – The latest quarterly fund statistics were published on 30 August.

Retail Distribution Review (“RDR”) – The FSC continues to work with industry and individual advisers in relation to the IoM RDR and meets regularly with the working party (which includes FPIBA, PFS, CII, IOMBA and CISI).

As at 30 June, of the 139 existing advisers who need to be RDR-compliant by 2014, 62% have fully achieved the standard or higher, 20% have some gap-fill to undertake or a maximum of one exam, 9% have two or more exams to take and 9% will not be in an RDR role.

IoM alternative assessments were carried out by examiners from the CISI. Six individuals passed and two further individuals have applied to undertake the assessment.

Authorised Schemes– The FSC has issued a short consultation relating to trustees and fiduciary custodians of Authorised Schemes (per paragraph 2 of Schedule 1 to the CIS Act 2008).
AML/CFT, public statements, warnings and sanctions

Money laundering and terrorist financing – The Amendment Code came into effect on 1 July, making several urgent amendments to the 2013 Code.

AML/CFT Handbook updates – The handbook was updated on 22 July to incorporate changes following the coming into force of the Amendment Code.

AML and Financial Fraud Conference – A conference was held at the Palace Hotel on 13 June.

Sanctions updates
6 Sep: Al-Qaida / Syria
28 Aug: Burma / Myanmar
5 August: Tunisia and Al-Qaida
30 July: Iran / Terrorism and Terrorist Financing

Consultations
Designated Non-Financial Businesses and Professions (“DNFBPs”) – Consultation on the FSC’s draft Designated Businesses (Registration and Oversight) Bill 2013 was extended by four weeks and closed on 26 July. The period was extended to ensure that all persons potentially affected by the Bill were aware of the proposals and to draw attention to the recent amendment of Schedule 4 to the Proceeds of Crime Act 2008. Schedule 4 lists the business and professions caught by the AML/CFT legislation and, in particular, the definition of external accountant.

The responses are currently being considered and a summary of these will be published alongside the FSC’s response in due course. Individual responses will also be sent to those who submitted comments. The FSC is in discussion with professional bodies to gain an understanding of the monitoring currently undertaken in relation to their members’ adherence to AML/CFT legislation in order to ascertain whether it would be appropriate to delegate any functions to the professional bodies, should they wish to accept such responsibility.

Civil penalties – The FSC published a response on 5 August to the recent consultation on expansion of the civil penalties framework. Further consultation on this topic is expected in Q4 2013.

Closed consultations – Information on closed FSC consultations, including summaries of responses, may be accessed here.

Government consultations – The Government’s central consultations register may be accessed here. Current and future Government consultations that may be of interest to licenceholders are listed below:

<table>
<thead>
<tr>
<th>Dept.</th>
<th>Status</th>
<th>Consultation topic</th>
<th>Link / contact</th>
</tr>
</thead>
<tbody>
<tr>
<td>FSC</td>
<td>Current</td>
<td>Transfer of Business Including Deposit-Taking Regulations</td>
<td>Susan Woolard <a href="mailto:susan.woolard@fsc.gov.im">susan.woolard@fsc.gov.im</a></td>
</tr>
<tr>
<td>FSC</td>
<td>Current</td>
<td>Collective Investment Schemes (Authorised Schemes) (Trustee and Fiduciary Custodian) Order</td>
<td></td>
</tr>
<tr>
<td>Treasury</td>
<td>Current</td>
<td>Consultation on the Limited Liability Companies (Amendment) Bill 2013</td>
<td>Gillian Prestwich <a href="mailto:gillian.prestwich@treasury.gov.im">gillian.prestwich@treasury.gov.im</a></td>
</tr>
<tr>
<td>Treasury</td>
<td>Current</td>
<td>Treasury shares under the Companies Acts 1931-2004 and 2006</td>
<td></td>
</tr>
<tr>
<td>FSC</td>
<td>Future (expected Q4 2013)</td>
<td>Expansion of the civil penalties framework</td>
<td>Andrew Kniveton <a href="mailto:andrew.kniveton@fsc.gov.im">andrew.kniveton@fsc.gov.im</a></td>
</tr>
</tbody>
</table>

Legislation

The Miscellaneous Amendments Act came into operation on 1 June. The amended FSA 2008 and CISA 2008 can be accessed from the FSC’s website. Links to “tracked changes” versions of the Acts will be replaced in the next month with links to versions that do not highlight the recent changes

**********************