

# FSA consults on regulating retail banking COB

December 2008

Currently, the Banking Code Standards Board monitors and enforces the voluntary banking codes governing current accounts, personal loans and overdrafts, savings, card services and ATMs.

However, in November 2009, the FSA becomes the main competent authority responsible for regulating banks' and building societies' payment transactions under the new Payment Services Directive (PSD), when it comes into force. This will introduce its own Conduct of Business Rules affecting the majority of retail bank accounts.

Currently responsibility for the regulation of retail banking is split mainly between the FSA, which covers deposit taking and the Office of Fair Trading (OFT), covering credit products such as unsecured loans and credit cards. The FSA has reviewed whether it would be more effective to extend their regulation across all aspects of banks' relationships with their retail customers (excluding credit), which has culminated in the consultation paper, published in November 2008.

Jon Pain, FSA managing director of retail markets, said: "Retail banking is going through a period of rapid change and regulation needs to keep pace with this change. We believe that in order to ensure that the regulatory model is fit to meet these challenges, now and in the future, the FSA should regulate the wider aspects of everyday banking for all consumers.

"We are working closely with the Banking Code Sponsors, Banking Code Standards Board, the Office of Fair Trading and consumer bodies to ensure we have input from all of the groups interested in this field."

The FSA is proposing the following new framework:

- Full application of the FSA's Principles for Businesses to the regulated activities of accepting deposits and issuing electronic-money.
- New high-level rules applying to retail banking services outside PSD scope in a Banking Conduct of Business sourcebook (BCOBS).
- Transfer of existing Code of Business rules and guidance applying to deposit taking to BCOBS.
- Monitoring and enforcement by the FSA, integrated into the wider risk-based approach to the supervision of the relevant firms and groups.

It is inviting responses to these proposals by 16 February 2009.

Since the FSA assumed its powers in 2001, under the Financial Services and Markets Act 2000, it has not made comprehensive rules governing the conduct of retail deposit-taking business, only doing so when required under European law or necessary to deliver specific consumer outcomes.

Self-regulation of banking Code of Business has continued, with the Banking Code Standards Board (BCSB) monitoring and enforcing compliance with the voluntary Banking Codes for dealing with personal and business customers, to which virtually all retail banks and building societies subscribe.

Although the new review has confirmed that the Codes' scope is broadly correct and the BCSB monitors and enforces them quite effectively, its regulatory approach is less principles-based and transparent than that of the FSA. Deterrence may also be limited by the fact that the BCSB does not have the power to fine. There are some gaps in the Codes' content, including no overarching fairness objective equal to the FSA's Principle 6.

Although these arrangements have generally worked well for deposit taking, the FSA now consider it appropriate to review whether they remain the right model for the future, particularly in the light of their desire to address more comprehensively and effectively prudential and conduct risks affecting the whole of companies' retail market activities.

This Consultation Paper will be of interest to companies that carry on the regulated activities of accepting deposits and issuing electronic-money. These include:

- UK authorised banks and building societies;
- UK authorised electronic-money issuers;
- credit unions; and
- incoming EEA branches of credit institutions and electronic-money issuers.

The proposals in the Consultation Paper will be of interest to consumer groups and personal and small business consumers of banking services because of the implications for how they are treated in their core relationship with the financial services industry.

#### **Events/briefings**

During the consultation period the FSA plans to hold events in London, Leeds and Edinburgh to explain their proposals (including the linkage with the Payments Services Directive implementation) and seek feedback.

The session will feature a number of speakers who will describe the proposed new framework to regulate the way banks treat their customers, its interaction with the Payment Services Directive and regulation of consumer credit, contents of the proposed Banking Conduct of Business sourcebook, and how the new arrangements would work in practice.

#### **Events details**

4 December	Edinburgh (The Royal Society of Edinburgh)	13.00-16.00
10 December	London (FSA Offices, Canary Wharf)	09.00-12.00
11 December	Leeds (Park Plaza Hotel)	13.00-16.00
16 December	London (FSA Offices, Canary Wharf)	09.00-12.00

These events are free of charge. To book a place at one of these briefings, email Dave Octave at the FSA, on: [dave.octave@fsa.gov.uk](mailto:dave.octave@fsa.gov.uk).

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